

**NOMINATIONS OF SHIRLEY SEARS CHATER  
AND HERBERT L. CHABOT**

---

W 5  
Y 4. F 49: S. HRG. 103-377

Nominations of Shirley Sears Chater... **ING**

BEFORE THE

**COMMITTEE ON FINANCE  
UNITED STATES SENATE**

**ONE HUNDRED THIRD CONGRESS**

**FIRST SESSION**

**ON THE**

**NOMINATIONS OF**

**SHIRLEY SEARS CHATER, TO BE COMMISSIONER OF THE SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH AND HUMAN SERVICES; AND HERBERT L. CHABOT, TO BE A JUDGE OF THE U.S. TAX COURT**

---

**SEPTEMBER 29, 1993**

---



MAR 30 1994

**Printed for the use of the Committee on Finance**

---

**U.S. GOVERNMENT PRINTING OFFICE**

**75-251—CC**

**WASHINGTON : 1994**

---

For sale by the U.S. Government Printing Office  
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402  
ISBN 0-16-043459-9



**NOMINATIONS OF SHIRLEY SEARS CHATER  
AND HERBERT L. CHABOT**

---

Y 4. F 49: S. HRG. 103-377

Nominations of Shirley Sears Chater... **ING**

BEFORE THE

**COMMITTEE ON FINANCE  
UNITED STATES SENATE**

**ONE HUNDRED THIRD CONGRESS**

**FIRST SESSION**

**ON THE**

**NOMINATIONS OF**

**SHIRLEY SEARS CHATER, TO BE COMMISSIONER OF THE SOCIAL SECUR-  
ITY ADMINISTRATION, DEPARTMENT OF HEALTH AND HUMAN SERV-  
ICES; AND HERBERT L. CHABOT, TO BE A JUDGE OF THE U.S. TAX  
COURT**

---

**SEPTEMBER 29, 1993**

---



MAR 30 1994

**Printed for the use of the Committee on Finance**

---

**U.S. GOVERNMENT PRINTING OFFICE**

**75-251—CC**

**WASHINGTON : 1994**

---

For sale by the U.S. Government Printing Office  
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402  
ISBN 0-16-043459-9

## COMMITTEE ON FINANCE

DANIEL PATRICK MOYNIHAN, New York

MAX BAUCUS, Montana  
DAVID L. BOREN, Oklahoma  
BILL BRADLEY, New Jersey  
GEORGE J. MITCHELL, Maine  
DAVID PRYOR, Arkansas  
DONALD W. RIEGLE, Jr., Michigan  
JOHN D. ROCKEFELLER IV, West Virginia  
TOM DASCHLE, South Dakota  
JOHN BREAUX, Louisiana  
KENT CONRAD, North Dakota

BOB PACKWOOD, Oregon  
BOB DOLE, Kansas  
WILLIAM V. ROTH, Jr., Delaware  
JOHN C. DANFORTH, Missouri  
JOHN H. CHAFEE, Rhode Island  
DAVID DURENBERGER, Minnesota  
CHARLES E. GRASSLEY, Iowa  
ORRIN G. HATCH, Utah  
MALCOLM WALLOP, Wyoming

LAWRENCE O'DONNELL, Jr., *Staff Director*  
EDMUND J. MIHALSKI, *Minority Chief of Staff*

# CONTENTS

## OPENING STATEMENTS

	Page
Moynihan, Hon. Daniel Patrick, a U.S. Senator from New York, chairman, Committee on Finance .....	1
Grassley, Hon. Charles E., a U.S. Senator from Iowa .....	6
Roth, Hon. William V., Jr., a U.S. Senator from Delaware .....	6
Breaux, Hon. John B., a U.S. Senator from Louisiana .....	11

## COMMITTEE PRESS RELEASE

Finance Committee to Consider Nominee to Head Social Security and Nomi- nee To Be a Judge of the U.S. Tax Court .....	1
--	---

## ADMINISTRATION NOMINEES

Chater, Dr. Shirley Sears, nominated to be Commissioner of Social Security, Department of Health and Human Services .....	11
Chabot, Hon. Herbert L., nominated to be a judge of the U.S. Tax Court (reappointment) .....	22

## CONGRESSIONAL WITNESSES

Pickle, Hon. J.J., a U.S. Representative from Texas .....	2
Sarpalius, Hon. Bill, a U.S. Representative from Texas .....	3
Gramm, Hon. Phil, a U.S. Senator from Texas .....	4
Hutchison, Hon. Kay Bailey, a U.S. Senator from Texas .....	5

## ALPHABETICAL LISTING AND APPENDIX MATERIAL SUBMITTED

Breaux, Hon. John B.:	
Opening statement .....	11
Chabot, Hon. Herbert L.:	
Testimony .....	22
Prepared statement .....	27
Biographical .....	28
Chater, Dr. Shirley Sears:	
Testimony .....	11
Prepared statement .....	30
Biographical .....	34
Durenberger, Hon. Dave:	
Prepared statement .....	41
Gramm, Hon. Phil:	
Testimony .....	4
Grassley, Hon. Charles E.:	
Opening statement .....	6
Prepared statement .....	41
Hutchison, Hon. Kay Bailey:	
Testimony .....	5
Moynihan, Hon. Daniel Patrick:	
Opening statement .....	1
"Is the Tax Law Going to Seed?" by Irwin Griswold, as delivered to the American College of Tax Counsel, San Diego, CA, February 5, 1993 .....	41
Pickle, Hon. J.J.:	
Testimony .....	2

#### IV

	Page
Roth, Hon. William V., Jr.:	
Opening statement .....	6
Sarpalius, Hon. Bill:	
Testimony .....	3

#### COMMUNICATIONS

Richards, Hon. Ann W., Office of the Governor, Austin TX .....	48
--	----



# **NOMINATIONS OF SHIRLEY SEARS CHATER AND HERBERT L. CHABOT**

---

**WEDNESDAY, SEPTEMBER 29, 1993**

**U.S. SENATE,  
COMMITTEE ON FINANCE,  
*Washington, DC.***

The hearing was convened, pursuant to notice, at 10:04 a.m., in room SD-215, Dirksen Senate Office Building, Hon. Daniel Patrick Moynihan (chairman of the committee) presiding.

Also present: Senators Daschle, Breaux, Roth, Chafee, Durenberger, and Grassley.

[The press release announcing the hearing follows:]

[Press Release No. H-36, September 28, 1993]

## **FINANCE COMMITTEE TO CONSIDER NOMINEE TO HEAD SOCIAL SECURITY AND NOMINEE TO BE A JUDGE OF THE U.S. TAX COURT**

WASHINGTON, DC—Senator Daniel Patrick Moynihan (D-NY), Chairman of the Senate Committee on Finance, announced today that the Committee will conduct a hearing on the following Presidential nominees:

Dr. Shirley Sears Chater, nominated to be Commissioner of the Social Security Administration, Department of Health and Human Services; and  
The Honorable Herbert L. Chabot, nominated to be a judge of the U.S. Tax Court.

The hearing will begin at 10:00 a.m. on Wednesday, September 29 in room SD-215, Dirksen Senate Office Building.

## **OPENING STATEMENT OF HON. DANIEL PATRICK MOYNIHAN, A U.S. SENATOR FROM NEW YORK, CHAIRMAN, COMMITTEE ON FINANCE**

The CHAIRMAN. A very good morning to our distinguished witnesses and their guests, members of the committee. We are here for the regular meeting on the Committee of Finance, which meets to hear the nominations we have received from the President of the United States for the Office of the Commissioner of Social Security, Dr. Shirley Sears Chater; and Hon. Herbert L. Chabot, to a second 15-year term as a judge of the U.S. Tax Court, an Article I court, which in this case the Finance Committee has jurisdiction.

Two of our esteemed colleagues from the House of Representatives have come here and would like to introduce Dr. Chater. I am sure that Senator Grassley and Senator Roth would want to let them speak because I know that Mr. Pickle, in particular, has to be back at the House for an important markup.

So we are saying good morning to you all, Mr. Pickle, Mr. Sarpalius.

Mr. Pickle, would you proceed, sir?

[The balance of Senator Moynihan's opening statement appears on page 7.]

**STATEMENT OF HON. J.J. PICKLE, A U.S. REPRESENTATIVE  
FROM TEXAS**

Representative PICKLE. I thank you, Mr. Chairman. I am pleased to endorse the nomination of Dr. Chater as the new Social Security Commissioner. I have been in this House now for a few years and I have tried to keep a close eye on the Social Security.

The Chairman and I worked together very closely in 1983 when we passed the Social Security Reform bill. Over the years I have tried to keep in touch with that organization because it is terribly important to our country.

I think then with some experience, I know a good Commissioner when I see one. I think she not only has a possibility of being a good one, but a great one. So I am pleased to be here and to endorse her nomination.

I think it is important—let me make one observation about the program. This next year or two is going to be tremendously important for the Social Security program, because the incoming disability claims continue to rise significantly each year. They are upward of \$1 million. It is an embarrassment for our country. We have to do something about it.

The number of retirees entering the Social Security system, the "babyboomers" will be coming on line in short time. Really by 2015 if something is not done, we have an enormous problem on our hand.

So handling these kind of cases, as well as just the administration of the growing cost of Social Security is tremendously important to our country. So we need somebody who is a good administrator.

Dr. Chater has got that experience as President of Texas Woman's University in Denton, with her degrees in some of the major universities and colleges throughout the country. Recently she has been appointed by Governor Ann Richards to be the Chairman of the Health Task Force for the State of Texas, making recommendations to the entire legislation about what our State does in the field of health difficulties.

So she has ability and she has a proven record of being a top administrator. I do not know how you would describe her, Mr. Chairman, but I would say she is a combination between Governor Ann Richards and Hillary Rodham Clinton. [Laughter.]

She has a lot of ability and she knows how to express herself. She gets to the point and knows how to administer a program this size. Social Security is tremendously important to this country and I think we have an usually capable administrator that has been nominated. I heartedly endorse her nomination.

I thank you, Mr. Chairman.

The CHAIRMAN. Very generous of you, sir. And no one is more familiar with this program in either body than I think you are, Jake Pickle, and you know the way, the respect with which your views are heard and attended to in this body.

The idea of someone a combination of Governor Richards and Mrs. Clinton is a little intimidating. [Laughter.]



But then it would be a new experienced. [Laughter.]

Mr. Sarpalius, good morning, sir. It is very generous of you to be here.

**STATEMENT OF HON. BILL SARPALIUS, A U.S.  
REPRESENTATIVE FROM TEXAS**

Representative SARPALIUS. Thank you, Mr. Chairman. It is an honor to be here before your committee; and especially it is a tremendous honor to introduce to you one of my constituents.

Dr. Chater, as Congressman Pickle has mentioned is Chairman of Texas Woman's University, which is located within my District. I could sit here this morning and talk for hours about how impressive her resume is and her accomplishments, but you have those accomplishments and that resume in front of you.

I would like to speak for a minute as to her contribution to the community that goes beyond just serving as President of that University. She has given of herself. For an example, in the city of the Denton our hospital closed. She had the wisdom to see a tremendous need there and put together support within the community by getting grants from the Federal Government, from the State and raising money and doing the work herself to set up the TWU Cares Clinic, which provides a service there for many people locally.

As Jake mentioned, she also served as Chairman of the Governor's Task Force on Health Care. At the University there, a large percentage of the students are, I guess you would say, single mothers who wanted to improve their quality of education, but there was a need for day care for those children.

She had the wisdom of putting together day care facilities there to try to help these women improve their quality of education and obtain degrees.

Mr. Chairman, I have always believed that when the day comes for us to stand before the good Lord, and when he judges us, I do not think he is going to ask us how high an office did we hold or how fancy a car did we drive or how big a house did we live in or how much money did we make. I think he is going to basically ask us two questions. One would be in our lifetime what did we do to serve him; and the second would be in our lifetime what did we do to serve other people.

Dr. Chater is a model and is an example of what service really is. She has given beyond what her job is. She has a big heart. She cares about people. And with those qualifications, and with the love within her heart for people, I can see nobody that could do a more outstanding and caring job as serving as Commissioner for Social Security than Dr. Chater.

It is my honor and my privilege to be here today and recommend her before your committee; and would hope that you would approve her, because there is no question she would do a superb job.

The CHAIRMAN. Well, sir, we feel privileged to have your very personal right to the point of where people are concerned testimony in this.

I know that you two gentlemen are required to be on the House floor or in committee meetings. If you would like to be excused at this point, we would just express our great appreciation for your coming. I assure you, it is going to turn out all right.

Representative SARPALIUS. Thank you, Mr. Chairman.

Representative PICKLE. Senator, I think I am going to stay just to hear what Senator Gramm has to say.

The CHAIRMAN. That is always wise. [Laughter.]

That is always wise. And Senator Hutchison has just joined us, too. A very good morning to the junior Senator. I will say welcome. Senator Gramm, good morning to you, sir.

#### STATEMENT OF HON. PHIL GRAMM, A U.S. SENATOR FROM TEXAS

Senator GRAMM. Mr. Chairman, thank you for giving me an opportunity to be here. I am very delighted to be here with my colleague, Senator Hutchison, and my two dear colleagues from the House. I am always honored to do anything with Jake Pickle. We represent our State's two great universities. And the fact that we work together is a testament to what can be done in promoting brotherhood and world peace. [Laughter.]

So I am always delighted to be anywhere with the great Jake Pickle, a man that I greatly admire.

Mr. Chairman, we have an opportunity to have someone at the Social Security Administration in Dr. Shirley Chater who has an outstanding background from the University of Pennsylvania to the University of California at Berkeley. She has outstanding academic credentials. She has held many responsible positions in research firms and in universities.

She is today President of Texas Woman's University, a university that has undergone great change under her leadership. It has increased enrollment. It has improved quality, and has done it all in a period where we have had relatively tight State budgets. She has had to make a lot of tough decisions. She has had to make very real trade-offs and it seems to me that through all of that she has done an outstanding job.

Any time someone is supported by Democrats and Republicans, it is some indication that they are doing something right. I think that background and that experience in making tough choices with limited resources is exactly the kind of administrative experience we need of those who are going to serve in the Federal Government.

So I am very happy to be here with my colleagues recommending that Dr. Chater be confirmed.

The CHAIRMAN. That is very emphatic and very welcome testimony, Senator Gramm, from a distinguished academician in your own right.

I want to record that I made a speech on the Senate floor in the case of the great budget debate and Senator Gramm was in the recesses of the Chamber, little did I know, listening. Afterwards when I got finished I got a note from him, the page brought over a note, it said, "Your grade, A; good content, somewhat wordy." [Laughter.]

Senator Hutchison, good morning. It is very pleasant to have you here. I believe this will be the first occasion you have appeared before the Finance Committee and you are very welcome.



**STATEMENT OF HON. KAY BAILEY HUTCHISON, A U.S.  
SENATOR FROM TEXAS**

Senator HUTCHISON. Thank you, Mr. Chairman. I am very pleased to be here and I would like to note that Congressman Pickle and I are very pleased to be involved in one of the few occasions where the University of Texas will outnumber Texas A&M on this panel. We need two to one to make up for our senior Senator, Senator Gramm.

Let me say I am very proud to be here to support Dr. Shirley Chater. I have worked with Shirley for the last 7 years. I admire her greatly and see her as a role model for the young women in our State. I have known her for many years and have worked with her on many projects.

What she has done at Texas Woman's University is phenomenal. Not only is she a charismatic leader, but she is also a manager. Texas Woman's University was on the chopping block by the Texas legislature several years ago.

The CHAIRMAN. I see.

Senator HUTCHISON. And Dr. Chater came in at a time when we really could have lost Texas Woman's University. But she turned it around; she had management skills that made it a going operation, she has increased enrollment. She has gone out into the community to see what it is that the women students needed to be able to compete in a very competitive market.

Under her direction, Texas Woman's University is now offering those courses, and is offering many community outreach programs for the women in the community of Denton. So she has a very special place in my heart. And when I heard that President Clinton was considering her for the Social Security Administration, I was very pleased; and when she was nominated, I immediately went to my colleagues on my side of the aisle and said, this one is a winner. She is going to do what is needed at the Social Security Administration.

That is, provide the management so that all of the people in this country who depend on Social Security will know that it is in good hands. I have every confidence that she will be confirmed and then will be responsive to those of us in Congress as well as to her constituents out through America.

As you know, Mr. Chairman, Social Security is an important part of the retirement of so many of our citizens. And having someone at the helm of that agency that will assure that it is well run and responsive to the people is most important. I can say with all of the knowledge that I have of Dr. Chater that she is the person to lead this agency.

Thank you very much.

The CHAIRMAN. Well, it could not be more emphatic or unanimous. We thank you all very much, Senators and Representatives.  
[Pause.]

The CHAIRMAN. A very good morning. I have to say we have some troubles on the floor and we may have a somewhat interrupted morning. But that is what we do here.

I see that Senator Roth and Senator Grassley are here. I have a somewhat lengthy opening statement, not interminable, but even so, as you may also be required to be on the floor, Senator Grass-

ley, would you like to make some opening remarks, an opening statement?

Senator GRASSLEY. Yes, please.

**OPENING STATEMENT OF HON. CHARLES E. GRASSLEY, A U.S.  
SENATOR FROM IOWA**

Senator GRASSLEY. Mr. Chairman, I am very pleased to see Dr. Chater here. We finally have a nominee for the position of Social Security Administrator. As we are reminded from a point that the Chairman has made repeatedly, this position has gone too long unfilled. So we are glad to see this step being taken today. We, of course, congratulate you on your nomination.

Of course, the Social Security Administration is one of our most important agencies. It administers one of the great success stories of our American social policy; and, of course, it always needs a strong leader in that post. And it seems universally conceded that the nominee will bring to the job very strong administrative and management skills.

These skills have been developed as a top administrator at a large university. At her last assignment, I was impressed with the fact that she led great changes at the Texas Woman's University. I would imagine that that displays great diplomatic skills that she is going to need as a Social Security Administrator, because to make sweeping changes in a university, community and within State Government, you have to be somewhat of a diplomat. At least I find that true in my State of Iowa.

Strong managerial skills of the kind that Dr. Chater possess are very much needed at the Social Security Administration. I suppose that if there was any weakness in Dr. Chater's preparation for the job, it might be a lack of experience with the Social Security program. This is a limitation, but it is obviously not a fatal one.

She would be supported by very good staff. I note that Larry Thompson is going to be primary position as Deputy. He, of course, is one of the leading experts on the Social Security program. So I think that that is going to make an outstanding team.

So I am looking forward to the testimony today, Mr. Chairman, and questioning her. Thank you.

The CHAIRMAN. Thank you, Senator Grassley.

[The prepared statement of Senator Grassley appears in the appendix.]

The CHAIRMAN. Senator Roth?

**OPENING STATEMENT OF HON. WILLIAM V. ROTH, JR., A U.S.  
SENATOR FROM DELAWARE**

Senator ROTH. Well, thank you, Mr. Chairman. I too want to welcome you here, Dr. Chater. We are delighted that your name has come forward. It is pretty difficult, Mr. Chairman, to add anything new after hearing these glowing accounts about this nominee. So I welcome you here and wish you well.

The CHAIRMAN. Thank you.



**OPENING STATEMENT OF HON. DANIEL PATRICK MOYNIHAN,  
A U.S. SENATOR FROM NEW YORK [continuing]**

The CHAIRMAN. Then I will proceed to make just a somewhat longer statement, to welcome you, Dr. Chater, to know that we had the opportunity to call on most members of the committee. We have been very pleased to see you at long light.

Please know that anything I have to say at this point is in no way to be considered a reflection on your remarks, on your nomination, and indeed are offered in the sense that these are the things in my view you are going to have to address.

You are going to have to address an agency in crisis. Indeed, in 1990 Martha Derthick at the University of Virginia, who is, I think, our most experienced historian of the Social Security Administration (SSA), published a small book called "Agency Under Stress: The Social Security Administration in American Government."

SSA is the oldest agency of the welfare state in the Federal Government, dating back to 1935, and was for the longest while an example cited repeatedly as a model of professionalism, of public administration on the edge of theory and practice, and of success.

That all began to fade about 20 years ago. There was an event, which was the adoption of disability insurance during the Eisenhower administration, which put the agency into the new role of judging health and making assessments about degrees of incapacity. It was very different than simply the arithmetic of calculating benefits contributions. And the problems associated with this role has never been resolved.

There was an important event took place in 1977, when the Social Security amendments of that year took us to a partially funded system. It was perhaps the irony of the superb administrative record of the previous 30 years, and the extraordinary persons involved, many who still very much are involved, that it was judged that we should take Social Security from a pay-as-you-go system to a partially funded system.

But it was not thought necessary to explain this charge to anybody. I was a conferee. I signed the conference papers. I had no idea what we were doing. Within about 5 years, I had figured it out. But we put in place a surplus from the year 1977 to about 2015. To give you a sense of the proportion, it would buy the New York Stock Exchange. That big.

But we made no provision for taking care of it, for diverting it in ways in which it could be said that it would be saved. By contrast, the Canadians use their surplus to purchase provincial bonds that are used for public works and are paid back, making them an investment in a real thing meat produces real returns.

So the time has come now when the Social Security trust funds are in huge surplus and those surpluses are being used as general revenues. As that word began to seep through society, distrust in the system rose.

The evidence of the problem is unmistakable. When Secretary Shalala came before us September 14, 2 weeks ago she said we have to restore the public's waning confidence in the Social Security system. We have to have renewed public confidence. We have to rebuild confidence in Social Security.



Secretary Shalala said, "Mr. Chairman, we share a common vision—to restore the American people's faith and confidence in the Social Security Administration and its vital program." Now, those are curious statements. And, obviously, very huge statements coming from an administration that has waited a year to fill this post.

We will be reporting your nomination out very shortly now. But the position has been empty since October 1 of last year. And instead of being one of the first priorities of the new administration, it was one of the last. The administration is in the process of proposing a vast new extension to social insurance; and yet, it does so on the foundation that Dr. Shalala repeatedly said was "weak and shaky."

Where did that public confidence go? The fact is, the majority of non-retired adults do not believe they will get Social Security. How did that happen? It is age-skewed. But we heard testimony 2 weeks ago, as Senator Breaux, who is the distinguished Chairman of our Subcommittee on Social Security will attest from professional persons before us saying their college educated children did not believe they would get their Social Security.

I have a theory of this, for what it is worth, that the system was so well run for so long and had such a good reputation that it lost its internal energies. People became so confident in it that they did not know that anybody else needed to know what was going on. They knew the Social Security trust funds were secure, so they did not bother the public with that information.

So now, a majority of the non-retired adults do not think they will get their Social Security. But if you have that much a loss of confidence in this basic institution, what can you expect? Why should people think they are going to get their health care if they do not think they are going to get their Social Security? And a majority of educated persons do not.

We had two incidences of this. In 1983, I was trying to get the Social Security Administration interested in giving recipients a card they could carry around with a holograph on it, plastic, one that would look real, instead of the little pasteboard card, such as I got in 1941, which was just like the 1935 original; and they would not do it. The Social Security Administration would not do this.

I got a bill passed, amendment on immigration legislation so that legal immigrants would have a Social Security card and could show it to their employer. Their employer would know it was genuine and would say, yes, I see you have it. You are welcome here.

The bill passed. A year went by and I asked for a new Social Security card. I got a letter from the Commissioner saying here it is. And in the old Navy there was a flogging offense known as dumb insolence. And if ever I saw it, here it was. They sent me the same piece of pasteboard, but with invisible fibers, instantly identifiable in an FBI lab. Their actions said, that will show you, Senator. You think you can change our pasteboard.

I have one here. Here it is. Our very able reporter, Carla Shehan, has had hers laminated so it does not crumble. This one belongs to Annette Nielsen. Here it is. And they still give out the same old card, even though in recent years, the Social Security card is assigned, as I am sure Dr. Chater's husband can testify, in maternity wards now.

It says here, "For Social Security and tax purposes and not for identification." See, in 1935 it was charged that the Democrats were giving everybody identity cards, like Adolph Hitler, and so they said "not for identification."

This is now the number on your dog tag in the U.S. Navy. You can get that thing on a bracelet in your maternity ward.

The other night the President of the United States was displaying the new health card on television. He should have been flashing a Social Security card. I have asked the administration again and again. You will have to do. Will the health security card number be the same as the Social Security number?

Because this agency is disappearing from view. I once counted the number of names between the Secretary of Health and Human Services, which is becoming a Department of Health, and the Commissioner of Social Security; and I believe there were 128.

In the mid-1980's we began to say, since people do not believe they are going to get their Social Security, that a possible reason for this lack of confidence is that they never hear from the Social Security Administration about their contributions, or that they are insured for benefits.

I guess I entered the system in 1943 and had I not been with this committee for 17 years, a half century would have gone by and I would never have heard a word from them. Had they spelled my name right? Did they have my addresses? Had they made any entries?

We asked that an annual statement be sent out. The largest expense would be the stamp. And the Social Security Administration did not want to do so. Their attitude seemed to say that it is nobody's business what our records say about them. Their records are fine. We want all the awards and they will find out when their times comes. That is a disastrous attitude.

We have it in statute that beginning in 1996, I believe, the people over 60 will get it, in 1999 everybody. The President would like to do it, but the Social Security Administration does not want to. And the agency increasingly is run by the Office of Management and Budget, principally for revenue purposes.

In the last Budget Reconciliation bill, we raised \$29 billion by taking the cap off health insurance benefits, purely to get revenue. An abomination. Franklin D. Roosevelt would be horrified.

I hear our distinguished friend, Senator Durenberger, saying the same thing. It breaks completely the connection between an earned insurance, contributory insurance, and what you pay for it. No protest came from the Social Security Commissioner, because perhaps not altogether by chance, there was none. [Laughter.]

Then lastly, just to give you an example of how this has caught up with the administration, the requirement that employers pay Social Security taxes on wages paid to domestic workers has been in place for a long time. A couple decades ago it should have been evidence that these payments were not being made. Only about a quarter of them were being made.

At that point the Social Security Commissioner should have said, that is not fair. There are women, mostly low-income women working day work, who will not get their Social Security benefits because their employers were not reporting their wages. And SSA



should have said this is a problem and we are going to work at it; and we are going to come before the Committee on Finance and say we have a problem here.

These are not lawyers and doctors. These are cleaning women. That is the kind of person Francis Perkins had in mind, that when they got sick Social Security would be there to care for them. When they got old or became disabled, there would be benefits for them. And they were not getting the benefits and nothing was done in the Social Security Administration to address the problem.

This administration came along and one person after another who came up for appointment has had this problem. It began with a nomination for the Attorney General that had to be withdrawn because the Social Security Administration was not doing its job.

I have to say for the record, and you will not mind, that you had such an experience as well. We have a letter from you explaining these events. They were sometime ago and I think as much as you have been able to do, you have retrieved the names and paid the taxes. We will put that in the record and that is behind us.

But what is ahead of you is to try to ask yourself, why has this once great institution fallen into such decay. People do not trust it. It takes no initiative. It gets no respect from OMB. Its principal of contributory insurance can be brushed aside by any Budget Director who wants to get the money. A trust fund reserve surplus that was to be equal to the asset value of the New York Stock Exchange is being frittered away.

No effort has been made to invest it in any ways that would give it a return. It was just in Treasury Bonds and the day will come when the babyboomers retire and this \$6 trillion in surplus will have been gone. That is the job they have given you, Dr. Chater.

I say to you, as I said earlier, in no way is any of this your doing, but that is what you have to accept; and you have to accept that the job you are going to take over has been vacant for a year. So there is lots to be done.

Now, I wonder, I see Senator Breaux has arrived. Senator Breaux, I have to be on the floor. I wonder if you would be good enough to chair this meeting until I get back.

We have heard our Senators from Texas and two members from the House. We have made our opening statements. Dr. Chater has not introduced her family which is there and she has an opening statement and then we will have questions.

Senator DURENBERGER. Mr. Acting Chair, would you indulge me for 30 seconds.

The CHAIRMAN. Senator Durenberger has not given his statement.

Senator DURENBERGER. That is quite all right, Mr. Chairman. I am sitting in on the prelude to tomorrow's hearing over in the Labor Committee and I would like to go back so I am well prepared for tomorrow.

The CHAIRMAN. Yes.

Senator DURENBERGER. But having met Dr. Chater for the first time a few days ago, and having known you for so much longer, Mr. Chairman, your interest in this, I just wanted to come and add my enthusiastic endorsement to the President's endorsement.

I have a statement that I will have made part of the record. But for one, I am very enthused by the appointment and I know the challenges we have all articulated. It seems to me just after a brief acquaintance that Dr. Chater is more than up to the challenge.

Thank you.

[The prepared statement of Senator Durenberger appears in the appendix.]

Senator BREAU. Thank you very much, Senator.

Senator Roth, you have already made your statement?

Senator ROTH. Yes. Thank you.

### **OPENING STATEMENT OF HON. JOHN B. BREAU, A U.S. SENATOR FROM LOUISIANA**

Senator BREAU. Well, Dr. Chater, just let me add my comments. We met yesterday. I was most interested in the statement of Chairman Moynihan with regard to the task that you are about to enter into. It is a monumental one. As I suggested yesterday, and I would hope that you would keep your eye on the big picture, that you are taking over one of the largest agencies in the Federal Government.

I would hope as Administrator, at least my own suggestion is, the Administrator be mindful of the big picture and the mission. I think that is what Senator Moynihan talked about, to not get yourself chained to minute details of running the office, but keep in mind the mission of the Social Security Administration, which is a very noble one and one that we want to see improved so that people can be more secure about their retirement benefits.

So having said that, I welcome you to the committee. I strongly support you and we would be most pleased to hear from you and also have you introduce your family.

Dr. Chater?

### **STATEMENT OF DR. SHIRLEY SEARS CHATER, NOMINATED TO BE COMMISSIONER OF SOCIAL SECURITY, DEPARTMENT OF HEALTH AND HUMAN SERVICES**

Dr. CHATER. Well, let me say good morning to you and thank you for your very supportive comments. I am really very, very honored to appear before you today as President Clinton's nominee to serve as the Commissioner of the Social Security Administration.

I want you to know that I bring to this hearing a very deep sense of gratitude to the President and to Secretary Shalala for the confidence that they have placed in me.

I also bring a very profound respect for the history, the magnitude and the responsibilities of the institution; and if I am confirmed, I want you to know I will consider it a privilege to lead.

I bring also a deep personal commitment to a task that is vital to our Nation's future well-being. That is, as the Chairman stated, the restoration of public faith in the Social Security system and the revitalization of the Social Security Administration as a proud and top-quality provider of services to the American people.

Before I discuss my thoughts on the agency and the role that I think the Commissioner must play in strengthening the institution, I would like for the record to thank and acknowledge some people.



First, I want to say how much I appreciate the members of the Texas Congressional delegation who came today—Senators Gramm and Hutchison; and Representatives Pickle and Sarpalius—for their support and their most generous praise.

I would also like to thank my family and friends for flying here from Texas and elsewhere to be with me today.

And, finally, I would like to thank you and the other members of the Finance Committee who took time from your busy schedules to meet with me prior to this hearing, to discuss with me your interests and concerns and to offer welcome words of encouragement.

If confirmed, I want you to know that I pledge to work closely with you and all members of Congress on the many challenges facing Social Security in the years ahead. The Chairman was especially thoughtful in scheduling this hearing at a time when my family could be present; and I thank him in his absence for doing that for me. It means a great deal to my family and to me, too.

Since the day that President Clinton and Secretary Shalala asked me to accept this nomination, I really have given a lot of thought to the mission of the Social Security Administration; and particularly to the role that the Commissioner can play in setting a course for the future.

I believe that the next Commissioner must bring to the Commission not only the excellent management and leadership skills which I believe I have, but also a firm resolve to strengthen both the institution and the programs that it administers.

I have spent my entire adult life in public service and have never been one to view leadership as a monolithic quality. To be an effective leader, one has to wear several hats, and that is certainly the case at the Social Security Administration.

If confirmed as Commissioner, I intend to be both an educator, and a persuader, as well as a consensus builder. As teacher and a college president and the Chair of Governor Richards' Health Policy Task Force in Texas, I have worked very hard to shed light on complex issues, and to build a public consensus on solutions to support vital programs.

That is very much what Social Security needs right now. As you well know, there is a distinct and disturbing lack of public confidence in the Social Security system as we have just heard. According to a recent survey by the American Council of Life Insurance, 56 percent of the respondents expressed a lack of confidence in the Social Security Administration.

Moreover, the survey showed that confidence in the system has been steadily declining over the past 7 years. Data from still another survey, one sponsored in 1991 by the Advisory Council on Social Security, indicated that over two-thirds of the respondents with a college degree did not believe that Social Security would have money to pay them when they retire. Clearly, this idea of forthcoming insolvency has taken root in the public psyche and it must be addressed.

The Commissioner of Social Security must be an active, ardent, and forceful voice in educating the American public as to the value of Social Security protection to individuals and families, now and in the future. We must work to turn public opinion around before eroding public confidence in Social Security is transformed into



popular support for measures that could diminish the system's effectiveness and endanger the financial security of millions of Americans.

If I am confirmed, I intend to work closely with you and with other steadfast and knowledgeable advocates of Social Security on this committee to achieve broader public understanding and support for the system. Your perspective represents a valuable resource for me, which I fully intend to utilize.

Mr. Chairman, beyond the need to be an educator, the Commissioner must also be an effective manager and a strong administrator. An agency with 65,000 employees, 1,300 offices and over 40 million beneficiaries requires strong leadership at the top. This is particularly true at a time when the Social Security Administration's ability to provide swift, accurate service to its claimants and beneficiaries has been hampered by an explosive growth in benefit claims, particularly in the disability area, by a drastic reduction in personnel during the 1980's, and by budgets that have not grown at a rate commensurate with growth in workloads.

If I am confirmed, I will never go to the American people and say, "I am sorry, but long delays and errors are unavoidable because we do not have enough money to do better." In my management style, excuses are unacceptable and surrendering to problems is intolerable.

As President of Texas Woman's University, I managed a large and diverse public institution that faced many of the same administrative challenges that the Social Security Administration faces today—competing and escalating service demands, limited resources with which to meet those demands, and high expectations from the public and the legislature.

We were able to meet those challenges by making the most efficient and productive use of the resources we had. Over a 5-year period, we increased student enrollment, as you have heard, by 20 percent. We provided significantly more services with no corresponding increase in our operating budget.

Now, I am not saying that administering a university is the same as managing one of America's largest government agencies. But I do believe there are certain principles in common. First, you experiment with innovative new approaches and you try different techniques for getting the work done better and faster.

You also look for obsolete policies and procedures that can be changed to save time and money. And you determine how best to use new technologies to enhance and expand your service capabilities.

I want very much to be personally involved in the technical evolution of the Social Security Administration. In an agency that serves people through more than 1,300 installations in cities and towns throughout the country, we must have not only service excellence but service equity.

And whether a claimant lives in Brooklyn, NY or Portland, OR, that person should receive service that is equally responsive, swift and accurate. And developing a more effective computer network to share information and distribute work among all of our offices is one way to help achieve that uniform service excellence.

To achieve lasting excellence, however, a good manager does not rely solely on technology. One must do everything to motivate the most valuable resources you have, the people with whom you work.

In the past few weeks, I have begun to meet some of the people who make up the Social Security Administration. The employees I have met impress me as dedicated individuals who are very committed to the mission of their agency.

They care deeply about the quality of service they offer to the public, and they want to work closely with the leadership of the agency to seek creative solutions to the Administration's problems. I am eager to put the talents of this team to use, and I have no doubt that we can and will make meaningful progress together.

I will also promise you, Mr. Chairman, and members of the committee, a very strong management team at the Social Security Administration. You already know Larry Thompson, who has been serving as Acting Commissioner and will become the Principal Deputy if I am confirmed. His depth of knowledge about Social Security and his years of experience in working with the Social Security Administration programs will be invaluable to us as we begin to solve the complex problems we face.

We also have a tremendous leader and advocate in Secretary Donna Shalala. She is committed to restoring the public's faith in Social Security and will continue to seek the resources necessary for the Social Security Administration to meet the tough challenges that lie ahead. I know that the agency will benefit a great deal from her leadership, her energy, and her deep personal commitment to make government work better for the people we serve.

Finally, Mr. Chairman, I believe that the Social Security Commissioner must be an advocate, an advocate for the elderly, for people with disabilities, for families who have lost a wage earner and for the people who are going through trying times and need supplemental security income.

Social Security has a marvelous story to tell. This agency does much more than just write and mail checks. It enriches lives. It gives people a sense of security. And in some cases, it gives a chance for new beginnings.

We talk a lot these days about finding ways for people to become more independent. I have always believed that in order for people to reach higher, one must provide a strong foundation from which to start. You have heard today in my introductions that at Texas Woman's University we created a program for single mothers that provided education opportunities and encouraged economic independence.

We also launched, as you have heard, the TWU Cares clinic to provide free health care and educational services to low-income families. We did this not to make them dependent on the university, but to provide the basic support they needed to become independent and to lead self-fulfilling lives.

The Social Security Administration can do this as well. We can and must help persons with disabilities get rehabilitative services so they can take their rightful place in the working world. We can use Supplemental Security Income to help people whose lives have been spiraling downward to stabilize themselves and start on the



road to a better life. We can give children with disabilities and their families hope for a brighter future.

The Commissioner of Social Security has the opportunity to be an advocate for many people, who need a well-placed ally, and I intend to make the most of that opportunity if I am confirmed.

Mr. Chairman, I hope that I have offered a glimpse of the leadership and vision that I would bring to the position of Commissioner of the Social Security Administration.

I would like to offer one last thought before I conclude. I want the members of the committee to know that should I be confirmed, I will consider this position one of high honor and one that I will be privileged to occupy.

I want you to know that I plan on unpacking my bags and staying for quite a while. There is a lot of work to do. It will not be done overnight and it has always been my practice never to leave a task unfinished. I do appreciate this opportunity to appear before you today.

Mr. Chairman, if you would do indulge me, I would like so much to introduce to you my family.

Senator BREAU. Please.

Dr. CHATER. After which I would be happy to answer your questions. Please?

Senator BREAU. We would be pleased to have you introduce them.

Dr. CHATER. Thank you. First my husband, Dr. Norman Chater; my daughter, Cris Chater; her friend, Rusty Lachell; our son, Geoffrey Chater; and his new bride, Brenda.

[The prepared statement of Dr. Chater appears in the appendix.]

Senator BREAU. Well, it is a very beautiful family and we are delighted to have them here at this very important occasion at your confirmation hearing.

Thank you so very much for a very solid and sound statement. I would make the comment about your experiences at Texas Woman's University and the fine job you have done there since you have been there. Perhaps one of the differences in this job is that you will have 535 Members of Congress telling you how to run your new position, which you probably did not have at Texas Woman's University, and that is going to be a challenge in itself.

I am delighted that I got from your statement your concern for the big picture and your desire to surround yourself with some of the top administrators who really know the system and the details of the system.

But let me ask you a big picture question, if I may. You mentioned the number of people in this country who really do not believe that Social Security is going to be there when they retire to take care of their needs. Half the people in this country have doubts whether it will be there.

I think that is reflective of a general distrust, not just with Social Security, but for government in general and particularly government coming from Washington. We have tried to address that problem by requiring that the Social Security let people know the financial stability of the system, let them know of its soundness and actually report to them that the program really is solvent and that their money will be there to pay their benefits.

Do you have any thoughts about what we can do, and particularly what you can do as the new administrator of this very large Federal agency out of Washington, to reinstate the faith and the trust of the American people?

Dr. CHATER. Yes, I do have some ideas. If confirmed, for example, I think one of the main reasons for people losing confidence in the system is they do not know very much about it. There is an awful lot of mythology out there that comes in the mail, that comes from the radio.

I believe we need to enter into a dialogue with the American people to have them understand the situation and to begin to open the dialogue for the considerations of some alternatives for the future to make the program solvent. That is obviously a main and long-term problem.

Senator BREAU. I think that is correct. I think that there is a fear of the unknown, there is a mistrust of the unknown. It is sort of like a health insurance policy. People have one, but they are not too sure what it covers. They have a life insurance policy, they are not too sure when and what benefits their family would be receiving.

I think that the mystery of Social Security is something that leads to the mistrust of the system.

Dr. CHATER. Yes.

Senator BREAU. Perhaps maybe you will be in a position to help shed some light on what many people feel is too complicated to even trust.

Dr. CHATER. Senator Moynihan referred earlier to this statement of personal benefits, which when I learned that it was one of his interests, the Personal Earnings and Benefit Estimate Statement, I requested mine and have it before me today; and I am going to encourage our grown children to request theirs.

It is really quite an educational document. I agree with the Senator that reading it and seeing just exactly what the benefits are does give you a knowledge base from which to begin to understand the Social Security system.

Senator BREAU. Well, I think that certainly is the right approach. Let me ask you something else. We have this reinventing government proposal that the Vice President, Al Gore, has worked on in great detail, which is going to be presented to the Congress. We have already had people talking about the consolidation of offices and paring down the size of some of the Federal agencies.

I noted in one of the press articles that a Social Security office merger is being studied, and that the Clinton Administration is considering merging some of Social Security's 1,300 field offices to save tax dollars, but lawmakers and advocates for the elderly are likely to oppose any plan that inconveniences frail and disabled Americans.

That is going to be one of the big picture problems that I would imagine you are going to be presented with at some time. Have you had a chance to discuss this proposal with Secretary Shalala or anyone? Do you have any thoughts on this concept or the idea of consolidation?

Dr. CHATER. I have not had an opportunity to read the news clipping that you have just referred to, but I can tell you this. If I am



confirmed, any plan to save money in terms of the reinventing government suggestions, would have to be worked through very carefully with a great deal of research. Because to me it is a balancing act.

We want to, first of all, provide the best possible customer service to the people of America. On the other hand, we want to use the best possible resources in terms of taxpayer money to do the job we have to do. I see it as a balancing act to decide how to preserve the high quality of customer service for which we are known, and how to save taxpayer money.

We would need to do a lot of research on this. We would have to deal humanely and carefully and sensitively with the people involved. And certainly, and most importantly, consult and have dialogues with members of Congress.

Senator BREAU. Well, I appreciate that. I think that any change, obviously, is very difficult in the political system.

I note further in that article that it quoted Secretary Shalala as saying she "favors consolidation and wants it handled locally and feels we can handle the politicians." And, of course, handling the politicians is obviously going to be one of the real challenges.

Let me ask my colleagues for questions they may have. I note Senator Grassley is first in order of appearance and I will recognize Senator Grassley.

Senator GRASSLEY. Well, first of all, I think that I would start with the question Senator Breau asked about and I think you gave a very good answer to what would have been the last part of a similar question I would have asked. If this is going to be the case, you are going to do what you can to make sure that proper levels of service are provided when we have consolidations like this.

You said you did not read the news report. But have you been briefed in any way about the possible changes, the closing and consolidations of some offices that have been suggested by the Secretary?

Dr. CHATER. No, sir.

Senator GRASSLEY. You have not. So then, would it be fair for me—I think it would be fair for me to, since you cannot answer this question more definitely now, we do have a provision where you can answer in writing. Now if it is not far enough along to answer in writing, that may be impossible before you would be voted out of this committee and this record closed, but it probably would not be impossible before it is reported on the floor of the Senate.

I guess the questions I would ask you to respond to in writing are whether the reports are accurate, and then the extent to which you might be able to give us some details about those. For instance, how many offices might be lost, and where they would be, those sort of details. Would that be okay?

Dr. CHATER. I would be very happy to arrange for that.

Senator GRASSLEY. Thank you.

[The following information was subsequently received for the record:]

*Question.* Are the recent media reports that the Clinton Administration is considering closing some field offices accurate? To the extent that you can give us details, how many offices would be closed and where are they located?

*Response.* I can assure you that, if confirmed, my highest priority will be to provide quality service to SSA's customers. I will make no changes, including any deci-



sions about consolidating the number of field offices, without first assessing the effect on SSA's clients and beneficiaries.

SSA's review of its operations will include a thorough examination of aspects of service delivery. If confirmed, I will lead an effort to look at ways to deliver better service while making the best use of SSA resources. SSA will consider consolidating offices only if it becomes convinced that it will allow it to improve service, and to use its scarce resources more efficiently.

SSA has just begun to analyze the current service delivery process and to evaluate alternatives to offer the best quality service possible. An integral part of its effort to improve service delivery will be in-depth discussions with Members of Congress of any changes anticipated in the way service is delivered. Therefore, I cannot give you details as to all of the factors SSA will consider in deciding whether offices should be consolidated, nor does SSA have a list of offices which would be affected.

Senator GRASSLEY. The last question that I have, I alluded to it a little bit in my opening comment, about your not having specific background in welfare policy. I do not see this as a fatal liability at all.

I would only ask how you would plan to compensate for that in your getting information, in your reliance and having people around you who presumably would have backgrounds of the Social Security Administration, and maybe just generally speaking how you compensate for taking over an agency and a bureaucracy and a program that you have not had any experience with in the past. Just some assurance for the people that depend on the program that it is going to be obviously administered by somebody who is going to be on top of it.

Dr. CHATER. I would be happy to respond to that, Senator Grassley. I do believe that management experience is transferable. Some of the very basic principles, for example, the principle of customer service has been with me always and I would expect it to have lots of application to some of the problems in Social Security Administration.

In terms of my management experience, I believe that a good leader sets a vision, provides the leadership to everyone in the agencies to go down the same path, to be sure we know where we want to go, and to be sure to know how we know when we are there. I am very committed to choosing a few key goals, mostly those that come from the Social Security Administration's strategic plan; and working on those quite specifically to make sure that we make a difference, to solve some of the problems that your constituencies bring to you.

Now, another very important component of what I look forward to, if confirmed, is the privilege of working with Larry Thompson who is an expert in Social Security as you know, and all the other Deputy Commissioners who have been in the agency for a long period of time and who are expert in their particular fields.

I work well with people. I believe in a management team, where we all participate in decision making and I want to make it ours, not mine but ours, and work together as a group.

Senator GRASSLEY. Thank you, Mr. Chairman.

Senator BREAU. Senator Roth?

Senator ROTH. Thank you, Mr. Chairman.

Earlier Senator Moynihan alluded to the problem of confidence of the American public in Social Security, one that I think is of great concern to many of us. Many Americans have confidence that funds are going to be there for Social Security benefits. Even if the

funds are going to be there, what benefits will they receive? Are they going to be taxable?

Many of the things we once thought were secure become questionable; the perception of the stability of the Social Security system has become questionable in the minds of many Americans.

We are about to begin the grand debate on health care. Part of the savings to pay for the administration's health plan will come from the Medicare and Medicaid programs. I think the savings proposed is a baseline growth limited to something like 4 percent a year in the two programs.

In the Wall Street Journal this morning, there is an article by Martin Feldstein, a distinguished Harvard economist, who I am sure you know, that raises questions whether or not those savings can be made.

I am not here to ask you where you stand on that particular issue. I do think, however, a question arises: what you see your role as in the future health care debate? This is going to be a very controversial, difficult question for Congress to decide what real savings can be made. And what do you see your role as in this discussion since earlier the OMB and others seem to have preempted this area as I think Senator Moynihan pointed out. Do you see yourself playing a significant role in the discussion with the Senate Finance Committee as we try to decide what to do?

Dr. CHATER. Yes, sir; I do. If confirmed, I would want very much to play an active role in policy. I would like to be able to share ideas. I would like to be able to utilize the very fine research staff that the Social Security Administration employs. I would like to be able to enter into a dialogue on the pros and cons of a particular position.

And, indeed, hope to be persuasive and influential on a particular point, if in my opinion it seems to be the right one.

Senator ROTH. Would you feel that you could speak frankly here to the committee, even though your position might differ with say the President's or the Director of OMB's, or whoever? The answers that are needed in this debate require some difficult evaluations.

Dr. CHATER. Yes. Well, I would like to think about that very carefully.

Senator ROTH. I think that is going to be a very important question. I am not trying to put you in an embarrassing position, but the Joint Chiefs of Staff as well as other people in policymaking positions constantly face this kind of a problem with voicing dissenting opinions.

I believe it is going to be important to this committee, as we move ahead on the grand debate on health care, that we have the very best advice of those people that have a hands-on experience and responsibility. I think it is critically important that we have your best, personal advice as one with valuable input for the administration of the job.

Going back to the issue of trust and confidence in the Social Security system. We recently subjected a greater percentage of Social Security benefits to income tax than before. Many people felt that a commitment was made in 1983. Half of the benefits would be subject to income tax; the half that employees had not previously paid taxes on. This was a bargain to help preserve the solvency of



the security system. Now, the budget legislation just enacted increased that tax.

This tax increase has created a lot of concern to many people back home. I had one Master Sergeant share his personal situation with me. He said his wife was a teacher, and early on in their marriage they decided they would save what she earned for retirement and live on his salary as an enlisted one. This is what they had done. Suddenly they found out that now they were going to be taxed substantially on their Social Security.

He was very angry since he felt that the increased taxation was a betrayal of the commitment that had been made to him. Would you favor an increased taxation of Social Security? What is your position on this tax increase on Social Security benefits? Would you be able to state a position?

Dr. CHATER. Senator Roth, I really do not feel comfortable stating a position today. I know that we have to increase revenues over time to meet the expenses. There should be alternate ways to examine that problem and I have not had an opportunity to either be briefed extensively or to consider what those alternatives might be.

Senator ROTH. Do you agree that part of the lack of confidence, the lack of trust in Social Security is that we are constantly changing what people once thought was an insurance, a commitment? If we were in the private sector, we would be pretty angry if the insurance company changed the benefits.

Dr. CHATER. Yes.

Senator ROTH. As we did.

Dr. CHATER. Yes.

Senator ROTH. So it seems to me that if we are serious about this lack of confidence and trust, we must quit changing the rules from time to time, as we appear to be doing. Would you agree with that?

Dr. CHATER. I would agree with the general principle, yes, sir.

Senator ROTH. Well, I wish you well in your new position. As I said, I think you are entering at a time when there is going to be a great deal of controversy. I do think it is important for those of us who have to make the tough decisions to have the very best advice and recommendations of those such as yourself that will be in a position of great responsibility.

Dr. CHATER. I appreciate that and I look forward to working with you.

Senator ROTH. Thank you, Mr. Chairman.

Senator BREAU. Thank you, Senator Roth. Let me ask just a general question. And again, you may not have had a chance to be briefed extensively by your actuarial staff at Social Security.

I have always felt that there should be a relationship between Social Security retirement age and life expectancy, that initially when we set out the retirement age we considered the life expectancy of men and women at that time and tried to develop a relationship between life expectancy and the retirement age.

It seems to me at least clear that the retirement age has not gone up at the same pace that life expectancy has increased. Do you have any thoughts about whether the Congress should accelerate the increase in the retirement age? How do you feel in general about retirement age being connected to life expectancy? Is that a

valid way of determining what is an appropriate retirement age for Social Security purposes?

Dr. CHATER. I can only respond to you as I feel as an individual. Since I have received my personal earnings and benefit estimate statement and see the encouragement one receives to continue working until age 70, I have just crossed out any intention to retire at 65. There are some incentives built in now, I believe.

Clearly with life expectancy increasing and more and more people wanting to work, there is some reason to think that retiring at a later age would support that philosophy. One would have to balance that, however, against what we were just talking about with Senator Roth, promises that have been made.

So whatever change would come about would have to be made for future recipients.

Senator BREAUX. Well, I would agree with that. I mean, we cannot just change the rules in midstream. But I think younger people must be told in plenty of time to make preparations for retirement that their eligibility for Social Security benefits will come a little later because they are expected, thank goodness, to live longer.

It is a factual thing. I was just wondering how did you feel about the connection between retirement age and life expectancy. I take it that you think that there is a connection there. How we handle it, of course, is something else.

Dr. CHATER. Yes.

Senator BREAUX. But that there is a connection, obviously, between the two. The fact that we picked a retirement age of 65 a long time ago and have not kept up with life expectancy increases seems to be something that should be examined. I would like to have that addressed.

I think the fact that the members are not here, it certainly indicates not their concern, nor their opposition, but rather the fact that they feel very comfortable about your visits and what you had to say in talking with them in private.

Senator Daschle just said that as he came in and had to go to something else, that he was very supportive of your nomination. I think that is what we have heard today and I think you have picked that up with your private meetings with members of this committee.

I certainly, and I think it is shared by everyone, look forward to working with you and wish you the very, very best.

That will conclude this formal hearing. I will note for our guests, as well as the witnesses, that Senator Moynihan is on his way from the floor, having dealt on the floor with a Medicaid amendment, as a matter of fact. He would like to be here, Judge, for your statement; and he has asked that the committee stand in recess before we take up the confirmation hearing of Mr. Chabot.

And also, Dr. Chater, he would ask if you could stay because he would like to visit with you. He should be here in just a minute.

He asked that we take a short recess until he is able to return to chair the next sessions of this hearing.

Dr. CHATER. Thank you, sir.

Senator BREAUX. With that, the committee will be in recess.

[Whereupon, at 11:18 a.m., the hearing recessed, to reconvene at 11:34 a.m.]



The CHAIRMAN. A very good morning to our distinguished nominee and to our guests. I gather, Judge Chabot, that you are alone this morning, are you?

Judge CHABOT. Yes, sir.

The CHAIRMAN. Very well, sir. Our next and final nominee today is Judge Herbert Chabot, who has been nominated by the President to a second term of 15 years as a judge of the U.S. Tax Court. As I remarked earlier, this is a Article I Court and comes before this committee as against Judiciary.

Judge Chabot was nominated by President Jimmy Carter to be a tax court judge in 1978 and has served with great distinction. I should note the Judge is well-known to our committee institutionally, having served for 13 years as a member of the staff of the Joint Committee on Taxation prior to his appointment to the bench.

Judge Chabot, we welcome you to what I—I do not wish it to be a perfunctory hearing, it is just that no one who has graduated from Stuyvesant High School and then went on to City College can fail to have something like the instant approval of this particular Senator.

Do you have a statement, sir?

**STATEMENT OF HON. HERBERT L. CHABOT, NOMINATED TO BE A JUDGE OF THE U.S. TAX COURT (REAPPOINTMENT)**

Judge CHABOT. I have a statement. As you can see, it is two sides of one sheet of paper. I will go through it briefly.

Mr. Chairman, and members of the committee, thank you for this opportunity to appear today before the committee. The last time I sat in a witness seat here was 15 years ago when I was first nominated to the Tax Court. And as the Chairman has noted, that for 13 years before that I sat in one or another of the chairs back of the members as a staffer from the Joint Tax Committee and worked on the legislation that the tax committees dealt with from 1965 through 1978.

At the Tax Court, where I have been for the last 15 years, basically my work is reflected in terms of the public appearance of it is reflected in my opinions of my cases and occasional dissenting and concurring opinions. I had only one case that went before the Supreme Court. That was the Cottage Savings Association, where my opinion allowed deductions for losses suffered in mortgage swaps arrangements. The case was appealed and the Court of Appeals for the Sixth Circuit reversed, holding that the deductions were not allowable, but the Supreme Court in term reversed the Court of Appeals and allowed the deductions and reinstated the decision I had originally entered.

We do have a lot of—

The CHAIRMAN. That is, you won?

Judge CHABOT. Yes, sir.

The CHAIRMAN. Good. Congratulations.

Judge CHABOT. We do have a lot of work behind the scenes. We, too, have committees. I have been chairing our Rules Committee. I have been a member of our Legislative Committee. I have dealt with our court library. I have participated in our continuing legal education program for the court's law clerks.



I must note on the subject of law clerks, one of my earliest law clerks has had distinguished service on your committee's staff for more than 7 years now, I am referring to Ms. Lindy Paull, who is seated in back of you.

The CHAIRMAN. Yes.

Judge CHABOT. Mr. Chairman, you have my biography, so there is no point in reciting any of it. I will, of course, do my best to respond to any questions or comments that you might have.

[The prepared statement of Judge Chabot appears in the appendix.]

The CHAIRMAN. Well, sir, I do. We are very proud of Lindy. If there are any more at home like her, you will no doubt know.

I have some questions, but I do not know if you are—feel free to respond; and if you do not, please so state.

Judge CHABOT. All right.

The CHAIRMAN. It is just that I had the great pleasure, if that is the term, of reading a paper given by Irwin Griswold, to the American College of Tax Counsel, a meeting in San Diego in February.

It is entitled, "Is the Tax Law Going to Seed?" He writes about his own experience. He went to the Solicitor General's Office in 1931, I think, and he said there were then five lawyers in the Solicitor General's Office and he was assigned to be the tax lawyer for government and he knew nothing about taxes.

In a wonder phrase I cannot find here, that there was no course at Harvard Law School on taxation. He said he thought he should go to the Solicitor General and tell him that he did not know anything about taxes. But then—and this is very characteristic—he thought about it and decided to go to the library instead and began his distinguished career in this field.

He describes bringing on Stanley Surrey to the Harvard Law School faculty and has some thoughts about some of what I call the Soravian influence on tax policy. In effect, he just says that it gets more and more complex and it is more and more beyond the capacity of most persons. He has made it a practice to make up his own returns by hand here.

I cannot quite find it here. But I think he said this year it took him 95 hours to make out the returns which involve—"Mrs. Griswold is disabled and needs an increasing amount of household help for her assistance. One result of this is I keep the appropriate records week-by-week and file quarterly Social Security tax reports. The final tax report must be sent to two different offices. The tax report to Philadelphia. The report on names and Social Security numbers to the Social Security Administration in Santa Fe, New Mexico. Then I must prepare several copies of a Form W-2 for each employee. The form contains 29 boxes and some of the instructions which accompany it are incomprehensible to me."

I'm just a retired law professor, but if it is incomprehensible to Irwin Griswold, we ought to be thinking a little bit about what is going on.

"I must get a covering W-3 form. In addition, I have one person who assists me with professional work. This requires the preparation of several copies of a Form 1099, which must be sent to the IRS with accompanying Form 1096. Then I have to prepared quar-

terly unemployment tax reports to the District of Columbia, and also similar reports to Massachusetts, since one of the employees works there. And finally, I have to prepare and file a Federal Unemployment Tax Return with payment. All in all, I figure these reports involve 40 to 50 pieces of paper, filed in five separate offices.

"After this is done, I have to prepare my Form 1040 and also a form for the District of Columbia Income Tax. Previously, I have had also to file income tax returns in California, Massachusetts, New York, and France. But my retirement has eliminated the need for returns in California. I recently changed my domicile from Massachusetts to the District of Columbia . . ."

It says, "My problem is partly due to the fact I have always made out my own tax returns. I started this out years ago and I figured that as a tax professor I ought to be able to make out my tax return, but it is becoming more and more . . ." and he goes on and on.

It takes 2 weeks, well 95 hours is 1 week for Irwin Griswold. Many a person would make it 2 weeks. I would like to put this in the record at this point, if I may.

[The paper by Irwin Griswold appears in the appendix.]

The CHAIRMAN. Have you or your colleagues any feeling on this that you would like to share with the committee? Are we sending you statutes you find incomprehensible?

Judge CHABOT. Mr. Chairman, we have an advantage that the attorneys in private practice do not have. That is, by the time we get a case, it deals with the law of several years past.

The CHAIRMAN. Yes.

Judge CHABOT. If the case goes to trial, we will get post-trial briefs. We will get pre-trial memoranda. And we have two law clerks to assist us. So we do not have to deal, in almost all instances, we do not have to deal with the law immediately after it is enacted. We do not have to deal with the law basically by ourselves.

Having said that, I must nevertheless add that it is increasingly the case that we run into parts of the law that we find very difficult to understand. The approaches of the decisionmaking process is getting more complicated in part because there are more detailed things that the Congress is trying to do with regard to particular pieces of legislation.

It is getting more complicated because of provisions in the law that are immediately examined by people on the outside that want to package ways in which their clients, or people that they hope to become their clients, can escape the intended objectives of the statute.

When I first came onto the Joint Committee staff, Senator Douglas was forever complaining about the problem, that it seemed to him many of the most inventive minds in the country were private tax lawyers who are devoting enormous efforts at trying to avoid taxation for their clients and would it not be wonderful for the country if somehow all of that brain power could be harnessed to constructive ends.

But the result is that the efforts then to deal with the problems that are presented by those who are trying to package various pro-



posals for their clients causes the law to get even more complicated.

We deal with the matters as best we can to decide the cases before us. But there is no question that the more different rules you have in a statute, the more likely it is that not only the statute will be complicated, but that the responses of outsiders will be complicated. Then your next revisiting of that area will get even more complicated as you try to deal with what the people on the outside have done with what you did last time around.

The CHAIRMAN. So the answer is yes?

Judge CHABOT. The answer is yes. And unless there is an effort to factor in a simplification approach in the things that you do, the answer will continue to be yes.

The CHAIRMAN. Will continue to be.

Yes. I do not know if you are familiar with a young professor at Georgetown, Professor of Law, Robert Katzman. He has been working hard at this question of how does the judicial branch communicate with the legislative branch. We need to do something like that.

We cannot just keep churning out 1,500 page laws and getting no answer back. And you make the point that there is the intervening phenomenon of K Street, as it were. But when it becomes the point when the tax laws are uniquely the prey or province, as you like, of those who can afford very expensive lawyers, then it begins to be a question of what is going on here. You are going to get two levels of equity I think.

I was just saying to the journalists who were covering the nomination of the Social Security Commissioner that there is an attitude in the Social Security Administration that, you know, if you want an annual statement, if you want a statement of what your contributions have been and what your benefits will be, you can get one by writing.

I found myself saying, if Francis Perkins heard that, she would get very upset. She said, I want that information to go to people who cannot write. I mean, we know that college graduates can figure that all out, how to send a letter to Washington and get an answer. What about that cleaning woman who does not have an electric typewriter at home? She is the one who most needs to know what her benefits are.

Mr. Rostenkowski has talked a lot about general simplification initiative in the Tax Code and we may yet get to it. As soon as Joe Gayle has the time. But maybe you could think about that, maybe you could give it some thought in your spare time and take back to your colleagues just this inquiry from the Chairman of the Finance Committee. Is there some way we could get to know each other's views a little better? Or more importantly, if we could learn more of your views.

It may be that in an opinion you could address this subject so we can read what you think. Is that possible?

Judge CHABOT. Well, there have been times in the past when we have put such views in opinions and the Congress has indeed paid attention.

I recall the series of opinions that gave rise to the innocent spouse legislation, where the court stated in case after case this pe-



tioner that is before us was the spouse of the person who received the money, often these were embezzlement situations, what have you, had no knowledge. But the embezzler is off to prison, has no estate or what have you, and this person signed the tax return, a joint return, and has liability. That is the way it is under the law. But the Congress may want to consider whether it should change the law.

The CHAIRMAN. Yes.

Judge CHABOT. We have done that at times. We have generally felt that apart from procedural matters it was regarded as inappropriate for judges to comment on the law. But I think that procedural questions, what we perceive difficulties of judicial administration of laws, would be appropriate for us to comment on.

One of the problems, of course, is that legislation proceeds at such a pace that almost never is there an opportunity for us to digest what is happening, to evaluate, and make comments on the legislation before it is enacted. But certainly to the extent there are things we perceive in the law that has been enacted, that we might make suggestions about, I will bring that back to my colleagues and we may do it by individuals expressing their views in opinions or by the court making suggestions to the committee.

The CHAIRMAN. Will you do that, sir?

Judge CHABOT. Yes, sir.

The CHAIRMAN. Our chief tax counsel, of course, if Mr. Gayle. It would interest us and it would be a useful development. I do not want it to anything more than very general.

Judge CHABOT. I just want to get back to a comment I made before. We are just now getting significant numbers of cases that involve the Tax Reform Act of 1986. So by the time we get to see the problems, we are really well down the road.

The CHAIRMAN. Right. And yet, this may be a useful opportunity because when it takes Irwin Griswold 95 hours to fill out his income tax, the time has come to say stop.

Judge CHABOT. I have also tried to and have thus far succeeded in making it a point to do my own tax returns because I feel that is the only way that I can appreciate what the person in front of me, the Petitioner in the various cases, has gone through. I feel that I will miss that if I simply bundle up my stuff and send it to an accountant.

The CHAIRMAN. Right. I think the better part of discretion is not to ask how long it takes you.

Judge CHABOT. It takes a long time.

The CHAIRMAN. A long time. That is more than adequate. Thank you very much, Your Honor.

For your own information, we will have a quorum in our committee tomorrow and we will proceed to report our your nomination which will be unanimously confirmed by the U.S. Senate next week and you can get on with your commitment to the Tax Court.

Our best regards to your colleagues. Again, we thank you for a distinguished career in public service that has only just begun.

Judge CHABOT. Thank you, Mr. Chairman.

The CHAIRMAN. Now, we are thanking our reporter for her laminated Social Security card, as well as everything else. We will close our hearing.

[Whereupon, at 11:56 a.m., the hearing was adjourned.]

## APPENDIX

### ADDITIONAL MATERIAL SUBMITTED

---

#### PREPARED STATEMENT OF HERBERT L. CHABOT

Mr. Chairman, Members of the Committee. Thank you for this opportunity to appear today before the Committee.

The last time I sat in a witness seat here was 15 years ago, when I was first nominated to the Tax Court. For the 13 years before that, I sat in one or another of the chairs behind the Members, as a staffer on the Joint Tax Committee. My work in that capacity dealt with much of the legislation from the Excise Tax Reduction Act of 1965, through the 1969 legislation that took the Tax Court out of the Executive Branch and moved it into the Legislative Branch under Article I of the Constitution, and to the creation of the Black Lung Disability Trust Fund in 1978.

My work on the Tax Court is reflected in my opinions, including occasional dissenting and concurring opinions in cases reviewed by the entire Tax Court. My only opinion that was reviewed by the Supreme Court was in *Cottage Savings Association v. Commissioner*, which allowed deductions for losses suffered in mortgage swaps arrangements. The Court of Appeals for the Sixth Circuit reversed, holding that the claimed deductions were not allowable. The Supreme Court, in turn, reversed the Court of Appeals, and allowed the deductions. My work at the Tax Court includes chairing our Rules Committee, membership on our Legislative Committee, dealing with our Court Library, and participating in our Continuing Legal Education Program for the Court's law clerks. And, on the subject of law clerks, one of my earliest law clerks has had distinguished service on your Committee's staff for more than 7 years. I refer to Ms. Lindy Paull, who came to the Committee's staff after 2 years as my law clerk and then almost 4 years of private practice with Sutherland, Asbill & Brennan.

Mr. Chairman, you have my biography, so there is no point in reciting any of it. I shall, of course, do my best to respond to any questions or comments that you or any of the other Members may have.

Attachments.



*The White House, PN 589*

SEP - 7 1993 19

*To the*

*Senate of the United States.*

*I nominate*

Herbert L. Chabot, of Maryland,

to be a Judge of the United States Tax Court for a term  
expiring fifteen years after he takes office.

(Reappointment)

**WILLIAM J. CLINTON**

MEMORANDUM TO: Committee on Finance, United States Senate

FROM: Herbert L. Chabot

TO: Nomination for Reappointment as  
Judge, United States Tax Court;  
Responses to S.F.C. Questionnaire

A. BIOGRAPHICAL

1. Name: HERBERT L. CHABOT
2. Home: 14104 Bauer Drive  
Rockville, Md. 20853  
301/ 871-7448  
  
Office: United States Tax Court  
400--2d Street, N. W.  
Washington, D. C. 20217  
202/ 606-8930
3. Born: July 17, 1931  
Bronx County, New York State
4. Married: Wife: ALEEN CHABOT  
(Maiden name: ALEEN CAROL KERWIN)

5. Children: ELLIOT CHARLES CHABOT--38  
DONALD JEROME CHABOT--32  
LEWIS AARON CHABOT--32  
NANCY JO CHABOT--31

6. Education:

Stuyvesant High School New York, N.Y.	1945-1948
C.C.N.Y. New York, N.Y.	1948-1952 B.A.
Columbia University Law School New York, N.Y.	1952-1953, 1955-1957 LL.B
Georgetown University Law School Washington, D. C.	1961-1964 LL.M

7. Employment record:

1952 (summer): Mt. Sinai Hospital; N.Y., N.Y.; accounting, payroll and other.

1953-1955: U.S. Army, Ord. Corps, Guided Missiles.

1955-1963: U.S. Army reserve, Civil Affairs (1955-1961: N.Y., N.Y.; 1961-1963: Riverdale, Md.).

1955 (summer): Bible sales; N.Y., N.Y., commission sales.

1956 (summer): U.S. Attorney, S.D.N.Y., paid intern.

1957-1960: American Jewish Congress; N.Y., N.Y.; attorney, Commission on Law and Social Action.

1960-1961: Misc. private practice.

1961-1965: U.S. Tax Court; attorney-advisor to Judge Russell E. Train.

1965-1967, 1968-1978: U.S. Congress, Joint Comm. on Taxation; positions from staff attorney to Assistant Chief of Staff.

Sept. 1967 - Jan. 1968: Maryland Constitutional Convention; elected delegate from Montgomery County, Md.

1974-1984: Adjunct professor, George Washington University National Law Center.

1978 - present: U.S. Tax Court, Judge (since April 2, 1993, Sr. Judge recalled to active service under subsection (b)(3) and (c) of section 7447).

8. Government experience: see item 7.

9. Memberships:

American Association of Retired Persons  
American Automobile Association  
American Bar Association  
American Jewish Congress  
Aspen Hill Civic Association (Montgomery County, Md.)  
Association of Reform Zionists of America  
B'nai B'rith  
C.C.N.Y. Alumni Association  
Columbia Law School Alumni Association  
Consumers Union  
Federal Bar Association  
Group Health Association  
Temple Shalom (Chevy Chase, Md.)  
The Planetary Society



## 10. Political affiliations and activities:

Montgomery County, Md. (1) registered voter, (2) enrolled in Democratic Party.

Because of Code of Judicial Conduct, my only political activity since 1978 has been to vote.

## 11. Honors and Awards: 1948-1952: New York State Regents Scholarship.

1952-1953: Columbia Law School Scholarship

(1955-1957: GI Bill)

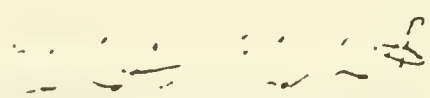
## 12. Published writings: None, apart from Tax Court opinions.

## 13. Speeches: August 1990: Presentation to Tax Section of American Bar Association relating to 1990 revisions to Tax Court Rules of Practice and Procedure.

November 1990: (3 days) Scholar-in-Residence, Case Western Reserve University, Cleveland, Ohio; various topics relating to Tax Court and tax legislative process.

Various times: Tax Court Continuing Legal Education program for Tax Court law clerks; nature and uses of legislative history.

## 14. Qualifications: I have been a Judge of the Tax Court since April 3, 1978. For the 13 years before then I served the Congress as a member of the staff of the Joint Committee on Taxation, and so I understand how the tax legislative decisions are made, how the statutory language is drafted, and how the legislative history is documented.

  
Herbert L. Chabot

  
Date

## PREPARED STATEMENT OF SHIRLEY SEARS CHATER

Good morning, Chairman Moynihan, Senator Packwood, and Members of the Committee.

I am honored to appear before you today as President Clinton's nominee to serve as Commissioner of the Social Security Administration. I bring to this hearing a deep sense of gratitude to the President and Secretary Shalala for the confidence they have placed in me. I bring a profound respect for the history, the magnitude and the responsibilities of the institution that, if confirmed, I will have the privilege to lead. And I bring a deep personal commitment to a task that is vital to our nation's future well-being—the restoration of public faith in the Social Security system and the revitalization of the Social Security Administration as a proud, top-quality provider of services to the American people.

Before I discuss with you my thoughts on the agency and the role the Commissioner must play in strengthening the institution, I do have some people I would like to thank and acknowledge.

First, I would like to say how much I appreciate the members of the Texas congressional delegation who have joined me today—Senators Gramm and Hutchison and Representatives Pickle and Sarpalius—for their support and their generous praise.

I would also like to thank my family and friends for flying here from Texas and elsewhere to be with me here today.

And, finally, Mr. Chairman, I would like to thank you and the other members of the Finance Committee who took time from your busy schedules to meet with me

prior to this hearing, to discuss with me your interests and concerns, and to offer welcome words of encouragement. If confirmed, I pledge to work closely with you and all members of Congress on the many challenges facing Social Security in the years ahead. Most especially I want to thank you, Mr. Chairman, for scheduling this hearing at a time when my family could be present. It means a great deal to them and to me.

Since the day President Clinton and Secretary Shalala asked me to accept this nomination, I have thought long and hard about the mission of the Social Security Administration and the role the Commissioner can play in setting a course for the future. I believe that the next Commissioner must bring to the position not only excellent management and leadership skills, but also a firm resolve to strengthen both the institution and the programs it administers.

I have spent my entire adult life in public service and have never been one to view leadership as a monolithic quality. To be an effective leader, one has to wear several hats, and that is certainly the case at the Social Security Administration.

If confirmed as Commissioner, I intend to be both an educator and a persuader, as well as a consensus builder. As a teacher, a college president and the chair of Governor Richards' Health Policy Task Force in Texas, I have worked hard to shed light on complex issues and to build a public consensus on solutions to support vital programs. And that is very much what Social Security needs right now.

As you know, there is a distinct and disturbing lack of public confidence in the Social Security system. According to a recent survey by the American Council of Life Insurance, fifty-six percent of the respondents expressed a lack of confidence in the Social Security system. Moreover, Mr. Chairman, the survey showed that confidence in the system has been steadily declining over the past seven years. Data from another survey, one sponsored by the 1991 Advisory Council on Social Security, indicated that over two-thirds of respondents with a college degree did *not* believe that Social Security would have money to pay them when they retire. Clearly, this idea of forthcoming insolvency has taken root in the public psyche and it must be addressed.

The Commissioner of Social Security must be an active, ardent, and forceful voice in educating the American public as to the value of Social Security protection to individuals and families, now and in the future. We must work to turn public opinion around before eroding public confidence in Social Security is transformed into popular support for measures that could diminish the system's effectiveness and endanger the financial security of millions of Americans.

Mr. Chairman, if confirmed, I intend to work closely with you and the other steadfast and knowledgeable advocates of Social Security on this Committee to achieve broader public understanding and support for the system. Your perspective represents a valuable resource which I intend to utilize fully.

Mr. Chairman, beyond the need to be an educator, the Commissioner must also be an effective manager and a strong administrator. An agency with 65,000 employees, 1,300 offices and over 40 million beneficiaries needs strong leadership at the top. This is particularly true at a time when SSA's ability to provide swift, accurate service to its claimants and beneficiaries has been hampered by an explosive growth in benefit claims, particularly in the disability area, by a drastic reduction in personnel during the 1980's, and by budgets that have not grown at a rate commensurate with growth in workloads. If I am confirmed, I will never go to the American people and say, "I'm sorry, but long delays and errors are unavoidable because we don't have enough money to do better." In my management style, excuses are unacceptable and surrendering to problems is intolerable.

As President of Texas Woman's University, I managed a large and diverse public institution that faced many of the same administrative challenges that the Social Security Administration faces today—competing and escalating service demands, limited resources with which to meet those demands, and high expectations from the public and the legislature. We were able to meet those challenges by making the most efficient and productive use of the resources we had. Over a five-year period, we increased student enrollment at the University by over 20 percent and provided significantly more services with no corresponding increase in our operating budget.

Now, I'm not saying that administering a university is the same as managing one of America's largest government agencies. But there are certain principles in common. You experiment with innovative new approaches. You try different techniques for getting the work done better and faster. You look for obsolete policies and procedures that can be changed to save time and money. You determine how best to use new technologies to enhance and expand your service capabilities.

I intend to be very personally involved in the technological evolution of SSA. In an agency that serves people through more than 1,300 installations in cities and



towns throughout this country, we must have not only service excellence but also service equity. Whether a claimant lives in Brooklyn, New York or Portland, Oregon, that person should receive service that is equally responsive, swift and accurate. Developing a more effective computer network to share information and distribute work among all of our offices is one way to help achieve that uniform service excellence.

To achieve lasting excellence, however, a good manager doesn't rely solely on technology. You must do everything you can to motivate the most valuable resources you have, the people who work with you.

In the past few weeks, I've begun to meet some of the people who make up the Social Security Administration. The employees I have met impress me as dedicated individuals who are committed to the mission of their agency. They care deeply about the quality of service they offer to the public, and they want to work closely with the leadership of the Agency to seek creative solutions to SSA's problems. I am eager to put the talents of this team to use, and I have no doubt that we can and will make meaningful progress together.

I will also promise you, Mr. Chairman, a very strong management team at SSA. You already know Larry Thompson, who has been serving as Acting Commissioner and will become Principal Deputy if I am confirmed. His depth of knowledge about Social Security and his years of experience in working with SSA programs will be invaluable to us as we begin to solve the complex problems we face.

We also have a tremendous leader and advocate in Secretary Donna Shalala. She is committed to restoring the public's faith in Social Security and will continue to seek the resources necessary for SSA to meet the tough challenges that lie ahead. I know that the Agency will benefit a great deal from her leadership, her energy, and her deep personal commitment to make government work better for the people we serve.

Finally, Mr. Chairman, I believe that the Social Security Commissioner must be an advocate—an advocate for the elderly, for people with disabilities, for families who have lost a wage-earner, and for the people who are going through trying times and need Supplemental Security Income.

Social Security has a marvelous story to tell. This agency does much more than just write and mail checks. It enriches lives and gives people a sense of security. In some cases, it offers a chance for a new beginning.

We talk a lot these days about finding ways for people to become more independent. I've always believed that in order for people to reach higher, you must provide a strong foundation from which to start. At Texas Woman's University, we created a program for single mothers that provided educational opportunities and encouraged economic independence. We also launched the "TWU Cares" clinic to provide free health care and educational services to low-income families. We did this not to make people dependent on the University, but to provide the basic support they needed to become independent and to lead self-fulfilling lives.

The Social Security Administration can do this as well. We can and must help persons with disabilities get rehabilitative services so they may take their rightful place in the working world. We can use Supplemental Security Income to help people whose lives have been spiraling downward to stabilize themselves and start on the road to a better life. We can give children with disabilities and their families hope for a brighter future. The Commissioner of Social Security has the opportunity to be an advocate for many people who need a well-placed ally, and I intend to make the most of that opportunity. Mr. Chairman, I hope that I have offered a glimpse of the leadership and vision that I would bring to the position of Commissioner of the Social Security Administration. I would like to offer one last thought before I conclude. I want the members of this Committee to know that, should I be confirmed, I will consider this position one of high honor, and one that I will be privileged to occupy. And I want you to know that I plan on unpacking my bags and staying for quite a while. There is a lot of work to do. It won't be done overnight. And it has always been my practice to never leave a task unfinished.

Thank you for the opportunity to appear before you today, and I will be pleased to answer any questions that you may have.

2N651

*The White House,*

SEP 15 1993

19

*To the**Senate of the United States.**I nominate*

Shirley Sears Chater, of Texas,

to be Commissioner of Social Security, vice Gwendolyn S.

King, resigned.

WILLIAM J. CLINTON



## OUTLINE OF INFORMATION REQUESTED OF NOMINEES

## A. Biographical Information

1. Name: Shirley Sears Chater
2. Address: 610 East University Drive, Denton, Texas 76201
3. Date and place of birth: July 30, 1932; Shamokin, Pennsylvania
4. Martial Status: Married (1959) Norman L. Chater
5. Number and Ages of Children: Cris, daughter, 32; Geoff, son, 30
6. Education:

Hospital of the University of Pennsylvania, Philadelphia School of Nursing, 1950-1953, Diploma in Nursing, June 1953

University of Pennsylvania, Philadelphia, 1953-1956, B.S., Nursing, June 1956

University of California, San Francisco, 1957-1960, M.S., Nursing, June 1960

University of California, Berkeley, 1960-1964, Ph.D., Education, June 1964

Massachusetts Institute of Technology, Sloan School of Management, Senior Executive Program, 1982, Certificate, November 1982

## 7. Employment Record:

Clinical Instructor in Nursing Hospital of the University of Pennsylvania, Philadelphia, July 1953-1956

Private Duty Nursing, Part-time; Franklin Hospital, San Francisco and Alta Bates Hospital, Berkeley, California 1958 - June 1964

Assistant Professor, Department of Social and Behavioral Sciences, School of Nursing, University of California, San Francisco and Assistant Professor, School of Education, University of California, Berkeley, July 1964 - June 1968

Associate Professor, Department of Social and Behavioral Sciences, School of Nursing, University of California, San Francisco and Associate Professor, School of Education, University of California, Berkeley, July 1968 - June 1973  
Professor, Department of Social and Behavioral Sciences, School of Nursing, University of California, San Francisco and Professor, School of Education, University of California, Berkeley, July 1973 - September 1982

Assistant Vice Chancellor, Academic Affairs, University of California, San Francisco, July 1974 - June 1977

Vice Chancellor, Academic Affairs, University of California, San Francisco, July 1977 - September 1982

Council Associate, American Council on Education, Division of Academic Affairs and Institutional Relations, Washington DC, December 1982 - August 1984

Senior Associate, Presidential Search Consultation Services, Association of Governing Boards of Universities and Colleges, Washington DC, September 1984 - September 1986

President, Texas Woman's University, Denton, Dallas, and Houston, Texas, October 1986 - present.

#### 8. Government Experience:

Federal: Dallas Regional Panel Member for President's Commission on White House Fellowships, 1992 and 1993

Consultant, Department of Health, Education and Welfare, Bureau of Health Resources Development, Health Resources Administration, regarding doctoral level manpower needs in nursing, 1974

Consultant, National Research Council, Commission on Human Resources, Department of Health, Education and Welfare, regarding health services research and evaluation, 1974

State: Texas Health Policy Task Force, Chair; appointed by Governor Ann Richards, November 1991 - January 1993

Testimony to Texas Legislature at request of Governor's staff to urge passage of health-related bills, January 1993 - May 1993

Local: San Francisco Comprehensive Health Planning Council, Advisory Committee, 1971 - 1973. Board of Directors, 1969 - 1970

#### 9. Membership

Institute of Medicine, National Academy of Sciences  
 American Nurses Association  
 American Academy of Nursing  
 California Nurses Association  
 Supporting Member, Texas Democratic Party  
 League of Women Voters  
 Sigma Theta Tau  
 Phi Kappa Phi  
 Iota Omega  
 Golden Key National Honor Society  
 Alumnae Association, University of Pennsylvania  
 Alumnae Association, University of California, San Francisco  
 Alumnae Association, University of California, Berkeley  
 Susan G. Komen Breast Cancer Foundation (National Advisory Committee, member)  
 United Way of America (Personnel Committee, member)  
 United Way, Denton (Board Member)  
 Chamber of Commerce, Denton, Texas  
 Greater Denton Arts Council  
 The Charter 100 of Dallas  
 The Dallas Forum  
 Leadership American (National Advisory Committee, member)

#### 10. Political Affiliation and Activities

A. Memberships/Offices Held in Political Parties  
 1986-Present: Party Affiliation, Independent  
 1983-1986 : Party Affiliation, Republican

B. Financial Contributions to Members of the Texas Legislature; Governor; Lt. Governor

1993	Ann Richards	\$100.
------	--------------	--------



1992	Ann Richards	\$100.
	Bob Glasgow	\$150.
	Jim Rudd	\$200.
	John Montford	\$200.
	Lena Guerrero	\$150.
	Ric Williamson	\$100.
	Bob Bullock	\$100.
	Carl Parker	\$100.
1991	Bob Bullock	\$1,000.
	Eddie B. Johnson	under \$100.
	Gonzalo Barrientos	\$100.
	Steve Carriker	\$100.
1990	Bob Glasgow	\$150.
	Ann Richards	\$100.
	Jim Rudd	\$100.
1989	None according to current files	
1988- 1983	No files available	

# 11. Honors and Awards

1. Florence Nightingale Award for Highest Achievement in School of Nursing Program, Hospital of Pennsylvania, 1953

National League for Nursing Special Fellowship for Graduate Training, 1958-1960

United States Public Health Service Pre-Doctoral Fellowship, 1960-1964

Elected to American Academy of Nursing, 1974

Distinguished Alumnae Award, University of Pennsylvania, School of Nursing, 1975

Distinguished Alumnae Award for National and International Contributions in Nursing Education, Hospital of the University of Pennsylvania, School of Nursing, 1976

Women's Forum West (Bay Area Distinguished Women, membership 100)

Sigma Theta Tau, Honor Society

Institute of Medicine of the National Academy of Sciences, elected 1982

Honorary Doctor of Letters from Baiko Jo Gakuin College, Japan, 1992

12. Published Writings: Please see attached bibliography

## BIBLIOGRAPHY

Chater, S. "Texas Children: Texas Treasure." Children's Promise, Spring 1993, 12-13.

Chater, S. "Supporting the President and Assessing the Presidency." In T. Ingram (Ed.), Handbook of Public College and University Trusteeship. Washington, D.C.: Association of Governing Boards, in press.

- Chater, S. and Hatch, A. "Student, Worker, Mom: On Campus, In Need." Educational Record, Winter 1991, 31-37.
- Stead, R. and Chater, S. "How to Hire a Chief Staff Officer." In Aiming High on a Small Budget: Executive Searches and the Nonprofit Sector. Washington, D.C.: Independent Sector, 1986.
- Bennett, J. and Chater, S. "Evaluating the Performance of Tenured Faculty Members." Educational Record, Spring 1984, 65 (3), 38-41.
- Bennett, J. and Chater, S. "Periodic Evaluation of Tenured Faculty Performance." College Student Personnel Abstracts, Summer 1984, 19 (4), 503-504.
- Chater, S. "Creative Uses of Power." In Andruskiw, O. and Conway, M. (Eds.), Administrative Theory and Practice. New York: Appleton, Century and Crofts, Inc., 1983.
- Hanson, H.A. and Chater, S. "Management Role Selection by Nurses: Managerial Interests and Personal Attributes." Nursing Research, Fall 1982.
- Chater, S. "The Clinical Component of Nursing Education - A Conceptual Approach." ("Les Composantes Cliniques de la Formation Infirmiere: Une Approche Conceptuelle.") In Second National Forum on Nursing Education Proceedings, March 17-19, 1982. Ottawa, Ontario: Canadian Nurses Association, 1982.
- Chater, S. "Competence in Organizational Roles." In Mauksch, I. (Ed.) Primary Care: A Contemporary Nursing Perspective, 41-50. New York: Grune and Stratton, 1981.
- Meleis, A., Wilson, H. and Chater, S. "Toward Scholarliness in Doctoral Dissertations: An Analytical Model." Proceedings of the 1979 Forum on Doctoral Education in Nursing. San Francisco: School of Nursing, University of California, 1979.
- Virden, S. and Chater, S. "Curriculum Consultation." Nursing Leadership, September 1979, 2 (3), 13-17.
- Chater, S. Introduction and Foreword to Environments for Humanized Health Care: Proceedings of the Symposium at the University of California, March 8-9, 1979. Edited by R. Lindheim, i-ii, 1-2. Berkeley: University of California, 1979.
- Chater, S. Operation Update: The Search for Rhyme or Reason. National League for Nursing Monograph No. 14-1608. New York: National League for Nursing, 1976.
- Chater, S. and McGaugh, J. (Eds.) Health Sciences Education in the 21st Century: Proceedings of the Symposium, June 3-4, 1976. Newport Beach: University of California, 1976.
- Chater, S. and Kramer, M. Nursing Research Study Guide. New York: American Journal of Nursing Co., Educational Services Division, 1975.



- Kramer, M., Chater, S. and Tone, D. J. Research in Nursing. Color Videocassettes (15 hours), produced by University of Nevada, Reno. Copyright by COGEN, USPHS #D10-NU-00432. Reproduced and distributed by American Journal of Nursing Company, Educational Services Division, New York, 1975.
- Chater, S. Understanding Research in Nursing. World Health Organization Offset Publication No. 14. Geneva: World Health Organization, 1975. French edition, Introduction a la Recherche Infirmiere. Geneva: Organization Mondiale de la Sante, 1976.
- Chater, S. "A Conceptual Framework for Curriculum Development." Nursing Outlook, July 1975, 23 (7), 428-433.
- Chater, S. "COGEN: Cooperative Graduate Education in Nursing." Nursing Outlook, October 1975, 23 (10), 630-633.
- Hoffman, K., Chater, S., Griffin, W. and Grace, H. K. "A Statement on Long Term Care." In Long Term Care in Perspective: Past, Present, and Future Directions for Nursing. New York: American Academy of Nursing, 1975.
- Chater, S. and Waters, V. "Articulation of Nursing Programs." In Media-Curricula Integration, COGEN Publication. Reno: University of Nevada, 1974.
- Chater, S. "A Conceptual Framework as a Basis for Decisions about Teaching Strategies." Paper presented at annual COGEN workshop, Exploring Nontraditional Study: Changing Strategies for Changing Times. University of Nevada, February 16-17, 1973. COGEN Publication, 1973, 4-11.
- Chater, S. "Is Accreditation Out of Date?" In Current Issues in Nursing Education. Presented to National League for Nursing Council of Baccalaureate and Higher Degree Programs in Nursing, 1972.
- Waters, V., Chater, S. et al. "Technical and Professional Nursing: An Exploratory Study." Nursing Research, March-April 1972, 21 (2), 124-131.
- Chater, S., Wilson, H. and Waters, V. Differentiation Between Technical and Professional Nursing: An Annotated Bibliography. New York: National League for Nursing, 1972.
- Chater, S. "Selection of Content for Associate Degree Programs." Nursing Outlook, July 1970, 18 (7), 50-52.
- Waters, V., Chater, S., et al. "Difference in Nursing Practice between Graduates of Associate Degree and Baccalaureate Degree Programs." Associate Degree Education: Current Issues, No. 23-1411. New York: National League for Nursing, 1970.
- Chater, S. "Preparation for the Functional Specialist in Education and/or Service at the Doctoral Level." In Extending the Boundaries of Nursing Education: The Preparation and Rules of the Functional Specialist. National League for Nursing No. 15-1397. New York: National League for Nursing, 1970.

- Chater, S. "An Approach to Differentiation Between Technical and Professional Nursing Education and Practice." In Toward Differentiation of Associate and Baccalaureate Degree in Nursing. San Francisco: Department of Continuing Education, School of Nursing, University of California San Francisco, 1970.
- Chater, S. "Integration: the Concept and Process." Paper presented at workshop, Toward a Rationale for Selecting Content for Associate Degree Nursing Programs, sponsored by the University of Tennessee College of Nursing, July 7-11, 1969, 47-57.
- Chater, S. "Nursing Education for the Community." In Associate Degree Education, Current Issues. Papers presented at the second conference of the Council of Associate Degree Programs, Atlanta, Georgia, March 6-8, 1969, 1-3. National League for Nursing Publication No. 23-1371. New York: National League for Nursing, 1969.
- Chater, S., V. Barha, et al. Guidelines for Assessing Nursing Needs in Regional Areas of California for Preparation of Nursing Personnel. San Francisco: California Nurses Association, 1968.
- Chater, S. "Criteria for Change." In Criteria for Quality. New York: National League for Nursing, February 1968.
- Chater, S. "A Framework for Differentiation." Paper presented at conference, "Toward Differentiation of Associate and Baccalaureate Education and Practice," School of Nursing, University of California, San Francisco, August 12-16, 1968.
- Chater, S. "Critique of Diurnal Relationships Between Ambient Meteorological Phenomena and Blood Pressure in Women." In Proceedings from Third Nursing Research Conference, 1968. New York: American Nurses' Association, 1968.
- Chater, S. "Differential Characteristics of Graduate Students in Nursing." Nursing Research, 16 (2), Spring 1967, 146-153.
- Chater, S. "Research Critique: The Coronary Patient." Nursing Research, 15 (3), Summer 1966, 246-251.
- Chater, S. "Teaching the Selection and Statement of a Problem." Nursing Outlook, 13 (6), June 1965, 65.

#### BOOK REVIEWS

- Chater, S. Review of La Chicana: The Mexican-American Woman, by A. Mirande and E. Enriquez. In Western Journal of Nursing Research, (Fall 1982).
- Chater, S. Review of Curriculum and Instruction in Nursing, by Virginia Connolly. In Nursing Outlook, 22 (10), (October 1974): 619.
- Chater, S. Review of "The Case for the Working Mother," by Cotton, Stein and Day. In American Journal of Nursing, (November 1965): 60.



Chater, S. Review of Nursing Research: A Survey and Assessment, by Hendersen. In American Journal of Nursing, (February 1965): 145.

### 13. Speeches

1990:

May 19, 1990 "Women in the Workforce", presented to faculty, staff and community members, Alaska Pacific University, Anchorage, Alaska

June 22, 1990 "Strategic Planning" presented to newly appointed college presidents, American Association of State Colleges and Universities, Eastern Michigan University, Ypsilanti, Michigan

1991:

November 7, 1992, "Women's Roles in Administration" Way-Up Conference for Women of Iowa, sponsored by the University of Iowa, Des Moines, Iowa

1992:

November 14, 1992 "International Exchange Programs for Higher Education", Baiko Jo Gaukin College, Shimonoseki, Japan

Throughout the year, "Progress Report: Texas Health Policy Task Force", presented to service clubs (Rotary, Kiwanis, Lions) in Denton, Dallas, Ft. Worth. Richardson, Texas; and to Texas Woman's University constituency groups.

#### OTHER

1991-1993 testimony before the Texas state legislator's committees during budget hearings for the university or higher education.

1990, 1991, 1992, 1993 State-of-the-University message, presented to faculty senate, staff organizations, alumnae chapters, parents, student groups, Regents, Foundation Board members, and community groups.

NOTE: Because I speak from notes and not written texts, I do not have copies of my speeches.

### 14. Qualifications

In one way or another, I have served the public during my entire career. In my present position as President of a university, I have provided leadership for out-reach programs that have become models which other institutions emulate. For example, our program for single mothers encourages economic independence for the mothers and provides educational programs for the children. Our TWU Cares clinic in cooperation with HUD offers free health care and educational programs to women and children of low socio-economic status, while introducing our students to programs of public service.

I have strong administrative and interpersonal skills. Utilizing these skills we successfully restructured the university so that more services are now provided to our constituents with the same budget today as we had five years ago.

Working successfully during the last two years with Texas legislators and members of the public to study the health needs of our citizens provided firsthand observation of the relationship between poverty and health. Our efforts led to a report which will serve as a blueprint for future legislation.

To summarize, I am a people-person with a caring attitude, possessing strong interpersonal skills together with administrative/management skills enabling me to provide leadership for the Social Security Administration.

---

PREPARED STATEMENT OF SENATOR DAVE DURENBERGER

Mr. Chairman, it is with pleasure that I express my support for Dr. Shirley Sears Chater, who is before us today in connection with her nomination by the President to assume the helm of the Social Security Administration.

SSA is an agency that touches perhaps more Americans than any other, in that while it receives taxes from everyone who works, it pays benefits to people that even the IRS leaves alone.

An agency of such reach needs a leader with vision, ability, and experience. I am perfectly satisfied that Dr. Chater is at the top of her class on each of those counts.

Dr. Chater will need to lead the SSA in an era of increasing doubts about the viability of the Social Security system, in an era of downsizing government, and in an era of tough choices. In her chosen field—which I characterize as “public service,” not “merely” “higher education,”—she has had to confront difficult decisions, be innovative, communicate well, and deal with limited resources.

Mr. Chairman, Secretary Shalala and the President are to be congratulated in attracting someone of Dr. Chater’s capability to the difficult post which she has been nominated. I am confident that she will be confirmed and look forward to working with her.

---

PREPARED STATEMENT OF SENATOR CHARLES E. GRASSLEY

Mr. Chairman, I am very pleased to see Dr. Chater, the nominee for the Commissionership of the Social Security Administration, before this Committee. As you have reminded us frequently, Mr. Chairman, this is a post that has gone too long unfilled.

The Social Security Administration is one of our most important agencies. It administers one of the great success stories of American social policy. We need a strong leader in that post.

It seems universally conceded that she would bring to the job very strong management skills. These skills were developed as a top administrator at large universities. At her last assignment, she led very great changes at Texas Woman’s University. I understand that she displayed great diplomatic skills within the university community, and in her dealings with the state government.

Strong managerial skills of the kind that Dr. Chater possesses are very much needed at the Social Security Administration.

I suppose that, if there is any weakness in Dr. Chater’s preparation for the job, it is the lack of experience with the Social Security program. This is a limitation, but probably not a fatal one. She would be supported by Larry Thompson as her primary deputy. He is one of our leading experts on the social security program. She would also learn the program in time.

So, I am looking forward to her testimony today, Mr. Chairman, and to the questioning. At this time, I am certainly inclined to support her nomination.

---

[Submitted by Senator Daniel Patrick Moynihan]

“IS THE TAX LAW GOING TO SEED?”

[As delivered by Irwin Griswold to the American College of Tax Counsel, San Diego, CA, February 5, 1993]

It is a great honor to be invited to speak before this group and, indeed, to have a lectureship established in my name. I am grateful to those of you who have



brought this about, and hope that this may result in a series of lectures which will help to make our tax system more understandable and workable.

Obviously, in preparing this lecture, my first task was to pick an appropriate subject. I might, for example, speak on the subtler aspects of ESOPs, or give a disquisition on some other aspect of the exciting field of deferred compensation, or a disquisition on SLIPS, SLAPS or SLOPS. Somehow or other, this is not very appealing. It made me think of Wordsworth's words:

"The world is too much with us; late and soon,  
Getting and spending, we lay waste our powers."

So, I thought I would find some topic which is more general, and not too heavy. With this in mind, this lecture undertakes some broad comments on our federal tax law, based on my own experience. In an informal way, I will try to summarize how it has grown, where it is now, and what its future prospects are. My remarks will be without the trappings of deep scholarship. I will often paint with a broad brush, and rely on personal experience. I may jest sometimes, but for the purpose of raising questions.

My first contact with our tax law came more than sixty-three years ago, when, at the age of twenty-five, I became the junior assistant in the Office of the Solicitor General in the Department of Justice in Washington. I had no background whatever in tax law. I never took a course on taxation, for the simple reason that there was no such course when I was a student at the Harvard Law School. The Constitutional Law course did deal in passing with a few questions of state taxation, such as those arising under the due process clause, and under the interstate and foreign commerce clause. There was no reference to the Federal tax law.

Shortly after I started my work in the Solicitor General's Office, I noticed that all of the tax cases were being routed to me. I thought seriously of going to the Solicitor General and telling him that I knew nothing about taxes. However, I soon recognized that the better solution was to go to the library, and learn what I could. This led me to make the novel request that a tax service be provided to me for use in my office. Though this involved much red tape, and several conferences, in due course, the purchase was authorized. Because it was cheaper, I suppose, the service provided was that put out by Prentice-Hall. One consequence of this has been that I have been a Prentice-Hall man throughout my career.

As one of the ancients said, "The times change, and we change with them." Because we change with them, it is sometimes difficult to perceive that there have been changes, even major ones. It does not take much reflection, though, to recall that the world today, is a very different place from what it was in the early days of the federal tax system.

The general federal income tax under the Sixteenth Amendment became effective on March 1, 1913, a few days short of eighty years ago. At the beginning, it was very modest. The normal tax rate was one percent, and the maximum rate of tax was seven percent on income in excess of \$500,000. Indeed, the first income tax was a rider added as Section II of the Tariff Act of 1913. During the first World War, tax rates rose steeply for a few years, including an excess profits tax. But this did not last long. The rates soon declined, and the courts became involved in next decade with a number of overlooked problems, such as the taxation of the income from community property. Other cases which came along in those fairly early days involved the burning question of the validity of waivers of the statute of limitations, taxability of assigned income (*Corliss v. Bowers*, 281 U.S. 376 (1930)), how specific a claim for refund must be (*United States v. Felt & Terrant Mfg. Co.*, 283 U.S. 269 (1931)), and the tax effect of a cancellation of indebtedness (*United States v. Kirby Lumber Co.*, 284 U.S. 1 (1931)). It was fun to work on these cases. There was little in the statute that dealt with them and the approach was on a sort of common law basis.

It is easy to forget the fact that the country was, in those days, a far simpler place than it is today—simpler in economy and simpler in social structure. Since that time the population has doubled and the economy, including the gross national product in current dollars, is about ten times what it was then. Moreover, the expectations of the people have greatly increased. Except for veterans, there were then no "entitlements." The national debt was minimal, and there was no appreciable problem about raising taxes to pay interest on the outstanding bonds. The early 1930s included, of course, the depth of the depression, which was far more serious than our present situation. The Democratic Administration was elected with substantial talk about retrenchment. I was one of those whose salary was cut by ten percent under the third statute enacted in the Roosevelt Administration, which was entitled "An Act to Maintain the Credit of the United States." But this soon changed



under the influence of the Keynesians, and we moved into the era of "tax and spend," the generally dominant theme ever since.

There was no television in those days, and radio was still developing. There was no air-conditioning. In the Department of Justice, most of our seniors took off for Maine during the summer, and left us young fellows pretty much in charge. I say "fellows," because there were very few women lawyers then. Major exceptions to this were Mabel Walker Willebrant, who was Assistant Attorney General for the Tax Division in the Coolidge Administration, and Helen Carlross, who was the leading appellate lawyer in the Tax Division, and had great influence on courts of appeals throughout the country. There were no black lawyers in the Department then. Our only contact with persons of African descent was with the elevator operators, and the man who came around once or twice a week to shine shoes. As I recall it, the charge was twenty cents, and we usually gave him a quarter.

The tax law at that time was enacted in full at two-year intervals. The income tax provisions of the Revenue Act of 1932 occupied about seventy-five pages in the large type of the Statutes at Large. However, in the Solicitor General's office, we were always working on cases which had arisen in earlier years. For several years, I think that I was the greatest expert around on the Revenue Act of 1924. I also found that when a stack of papers a foot or so high was put on my desk, it was a case under the excess profits tax provisions of the Wartime Revenue Act of 1917, often involving the so-called "special assessment" provisions under the 1918 statute. This was a sort of automatic discretionary provision for tax relief, and a gold mine for tax lawyers.

Since those halcyon days, many changes have occurred. There were then five lawyers in the Solicitor General's office; now there are twenty-five. This change in size corresponds generally to the number of cases on the Supreme Court's docket. There were about a thousand cases submitted each year in the early 1930s; now there are five thousand. But there are other changes. There were no computers in those days, except for the punched card system, on which IBM was founded. But there was no use for that in the Solicitor General's office. There was no fax, no voice mail, no Xerox. Long-distance telephone calls were subject to delay. Your letter box was not packed with fancy mail-order catalogues and charitable solicitations. All official letters were written on typewrites, and they clattered up and down the hall. Now, we have word processing, with interoffice connections, and typewriters have virtually disappeared. The new word processors are fascinating, and frequently save much time. They are also intimidating to me. I decided a few years ago that I was too old to try to learn how to push all the buttons in the right order.

Through Westlaw and Lexis virtually any decision is instantly available, including a case decided only minutes ago by the Supreme Court. I grew up on Shepard's citations, and still use the various volumes, hoping that they will not be discontinued. Most of the lawyers in the office, though, use Westlaw or Lexis for searching citations, at considerable expense to the clients.

Why do I mention these well-known facts? The reason is simply that they parallel an enormous development of the tax law over the past sixty years, particularly in the past thirty years. When I started in the tax field, the income tax provisions of the Revenue Act of 1932 appeared in about two hundred sections. There were not many tax lawyers or, indeed, not many lawyers who knew anything about taxes. About forty lawyers attended the founding meeting of the Tax Section in 1948. Short of litigation, most lawyers felt that this was essentially work for accountants, and thus, from their point of view, a little beneath them. There are now a number of law firms which specialize in taxes, and nearly every firm has a Tax Department with a sizable number of tax lawyers.

In the early stages, the accounting firms and individual accountants eagerly sought tax business. In due course, a considerable amount of friction developed between the accountants and the lawyers. For a number of years, I was a member of a committee of the American Bar Association dealing with Relations between Lawyers and Accountant, and we met regularly with a corresponding committee of the American Society of Certified Public Accountants. Under the wise leadership of a former President of the American Bar Association, William J. Jameson, we urged that the accountant and the lawyers should work together, leaving the bookkeeping, auditing, and preparation of tax returns to the accountants, subject to their seeking legal advice from lawyers when a significant legal question arose. After several years of active work, the conference between the lawyers and the accountants disappeared.

There was another important event which occurred about forty years ago, and this was the rise of the influence of a remarkable tax lawyer, Stanley S. Surrey. I first encountered Stanley through an article he wrote just after graduation from the Columbia Law School in 1932. Later, I worked with him at the Treasury, and was



much impressed by him. In 1946, when I became Dean of the Harvard Law School, I wanted to bring Stanley to the Law School faculty, but no one on the Appointments Committee knew him, and I was not able to get the committee to make any move. As a result, I deliberately arranged things so that he received an appointment on the faculty of the University of California in Berkeley. Then, at the annual meeting of the Association of American Law Schools, I put on a reception to which I invited Stanley (among others) and the members of the Appointments Committee. When they came to know him, and saw some of his work, they supported my recommendation that he be invited to join the Harvard faculty. He arrived in Cambridge in 1950, and was an active member there until 1981 (except for nearly eight years when he served as Assistant Secretary of the Treasury for Tax Policy). One aspect of these machinations of mine always amuses me. After Surrey was appointed at Harvard, a faculty member at another law school came to me and said: "I was surprised that you brought Surrey to the Harvard faculty. He is your greatest competitor." I can only say that I never thought of him as a competitor. I knew him to be a remarkably able tax lawyer, with an academic bent and talent, and I knew that he would be a valued addition to the faculty.

And that he was. He soon put out his own casebook, using much more economics material than I had included in my casebook, and developing many refinements which I had thought it better to leave out of a casebook for beginners.

But that was Stanley's problem. It is the reason that I mention him here. He had a remarkable mind, which could penetrate deeply, divide thoughts into channels, and then sub-divide, and organize, and reorganize and expand in precisely thought out details. Until Stanley became Assistant Secretary of the Treasury for Tax Policy, the tax law remained relatively simple. We have Wilbur Mills to thank for much of that. He was one who understood the importance of holding tax legislation to an understandable minimum, without expanding it into more intricate detail. But Stanley could see all the problems, and, having seen them, he felt that it was his duty to spell them out. Under his aegis, we began to have sections of the statute with large numbers of sub-sections, and sub-sub-sections. Sometimes a single section runs in length to several pages. Many of these provisions I find baffling. One consequence has been that in many law offices there are specialties within the tax field—experts who work only on deferred compensation, or on transfer pricing, and so on.

Stanley was not only a remarkable lawyer, he was also a great teacher. In the course of time, he developed a large number of devoted followers, in the Treasury Department, and on the staff of the Joint Committee. These are the lawyers who actually write most of the statutory provisions. (I often found that very few members of Congress had any idea of what it was they had passed.) The congressional committees would adopt proposals in rather general terms, often without having any specific draft before them. Then, the able young lawyers on the staffs would go to work, thinking of all the possibilities, and drafting the statutes in great detail. In some cases, the statutory provision had been "enacted" before it was drafted. As a result we have many highly intricate, very long, and complicated provisions in the existing tax law. The booklet of instructions published by the Internal Revenue Service for Form 1040 for 1992, including its schedules, fills about eighty-five 8.5 x 11 pages, with three columns to a page, of generally small type. In addition, these instructions include frequent references to other forms and other instructions, such as Form 1116 for the foreign tax credit, Form 6251, dealing with the alternative minimum tax, and Form 8283, dealing with noncash charitable contributions, each with its own set of instructions. I need not go into more minutiae. You are thoroughly familiar with all this. Many of those who practice in the tax field have long since been overwhelmed by all this detail.

There is another defect in our tax system which I find very troublesome. This is the upside down pyramid which we have for court review of tax cases. Nearly fifty years ago, I wrote an article on "The Need for a Court of Tax Appeals," 57 Harv. L. Rev. 1153 (1944). As we all know, most tax cases in court—about eighty percent—are heard in what is now called the United States Tax Court. Tax cases can also be heard in the United States District Courts, where a jury trial is available, and in the United States Court for Federal Claims. After cases are heard in the trial courts, appeals then go to thirteen different courts of appeals—the eleven United States Courts of Appeals, and the Courts of Appeals for the District of Columbia Circuit and for the Federal Circuit. In the nature of things, these courts of appeals often reach conflicting results, or decisions which are hard to reconcile. The only review of their decisions is on wholly-discretionary certiorari to the United States Supreme Court. As a result, there are a number of conflicting decisions. The Supreme Court hates tax cases, and there is often no practical way to resolve such conflicts. There is thus extensive delay in reaching final decision on tax questions, and this



provides opportunity for many conferences with the Service and Chief Counsel's Office in other cases involving the issue.

My proposal was to establish a single Federal Court of Tax Appeals. We came fairly close to getting that result when the Court of Appeals for the Federal Circuit was established in 1980. This would provide a relatively quick way of reaching final decisions on questions of construing and applying the tax law. It would not interfere with jury trials which could still be had in the district courts. Nevertheless, to my regret, the practicing bar, including the Tax Section of the ABA, has always opposed this arrangement. I remember back to the early days when Robert N. Miller was the founding mover of the Tax Section, and he quite definitely did not want to have any "specialized" judges hearing tax cases. I can understand this to some extent. However, I have never been able to get over the feeling that the real reason is that tax lawyers find it advantageous to have uncertainty and delay. As long as there is a conflict of decisions, tax cases can be settled for an appreciable savings, even when it is tolerably clear that the eventual decision would be in favor of the government. It is equally true that the same thing operates in reverse. Even though the taxpayer's position is very strong, the government representative may hold out for the purpose of inducing a settlement for less than the case is really worth. Settling such a case at a discount may be cheaper than going ahead and paying the costs of trial and further appeal. It's like settling tort cases.

It is not too late for the Tax Section to recognize its responsibility in this area, and to help to promote a system that will bring about speedier, final resolution of tax issues. This, in my view, is really required by our obligation to help to provide a system of tax review which actually works effectively. This is in no sense inconsistent with our duties to our clients. In this connection, I may call to mind the example of Randolph E. Paul, one of the early giants in the tax field, who had a remarkable capacity to represent clients effectively while, at the same time, maintaining his independence of view regarding the terms of the tax statute and a system for resolving tax controversies.

In recent years, there have been new developments in the organization of the profession. Law firms have grown greatly in size, and so have accounting firms. There is, I think, some risk that the old controversies between lawyers and accountants may be arising again. There are accounting firms which have a hundred tax lawyers on their staff in a single city, and the number of lawyers working directly for accounting firms today must be ten to twenty times what it was when the earlier controversies, based on "unlawful practice of law," were current. These lawyers are not representing their own clients. They are representing clients of the accounting firm. In so far as the questions are truly ones of accounting, there is no problem. But, very often, the essential question is one of the construction of the tax statute, or of the evaluation of the legality of certain courses of conduct. This gets into a troublesome zone. Most law firms have good relations with the local accounting firms, and many of these problems can be worked out with thought and care on both sides. I get the sense, though, that these problems are increasing, not only in number, but also in the legal complexity of the issues involved. This may be a problem to which attention should be directed.

On the other hand, there is a countervailing problem. In recent years, there has been some movement towards establishing what might be called the "full service law firm." What this usually involves is the creation by a law firm of one or more subsidiaries. Thus, there is an accounting subsidiary, a real estate subsidiary, a financing subsidiary, a public relations subsidiary, a lobbying subsidiary, and so on. The American Bar Association has found it difficult to come to a resolution of this issue. These subsidiaries are, in practical effect, funnels for attracting law business to the law firms. That, plus increasing revenue for the controlling firm's partners, is indeed their primary purpose. It may well be that we will soon find ourselves in a situation where the accounting firms, not to mention real estate firms, banks, and others, will have legitimate complaints that the law firms are covering the marketplace and siphoning off work which is appropriately the field of other professionals or businesses.

The real problem, I think, is the nature of what a law firm should be. Is it a business, where conglomerates are not uncommon, or is it truly a profession—in Pound's words, "the public profession of the law?" For five or six centuries, up to now, it has been proudly a profession, accepting many sorts of responsibilities, as well as providing strictly legal services, in and out of court. The fact that the practice of law is a profession, not a business, is a attraction which leads many young people to the study of law, and which gives them a strong sense of pride in their law practice, a feeling that what they are doing is a true public service, even though it is a way of making a living. Using the profession to support oneself and one's family is surely laudable. Using it to make "big money" raises fundamental questions. The



wrong decision on this matter may have severe impact on the profession as it has long existed, and as it stood when we accepted membership in it. It is my fervent hope that these problems will be squarely faced by tax lawyers and other lawyers of today, and that we will continue to think of law practice as a field of public service with all the opportunities and satisfactions which are inherent in the practice of law.

I have one further point, which is a major one. It can be put concisely: the present tax law has spun out complications to the extent that it is truly monstrous. In my view, something must be done about it. I have already referred to the complexity of the statute, to the numerous forms which the IRS necessarily requires, and the pages and pages of instructions which represent a valiant effort to clarify the situation. But we have already gone too far.

Just to use myself as an example, my wife is disabled, and, as we advance in years, we need an increasing amount of household help for her assistance. One result of this is that I have to keep the appropriate records week by week and file quarterly social security tax reports. The final report must be sent to two different offices, the tax report to Philadelphia, and the report on names and social security numbers to the Social Security Administration in Santa Fe, New Mexico. Then, I must prepare several copies of a Form W-2 for each employee. The form contains twenty-nine boxes and some of the instructions which accompany it are incomprehensible to me. I must get a covering W-3 form. In addition, I have one person who assists me with professional work. This requires the preparation of several copies of a Form 1099, which must be sent to the IRS with a covering Form 1096. Then, I have to prepare quarterly unemployment tax reports to the District of Columbia, and also similar reports to Massachusetts, since one of the employees works there. And finally, I have to prepare and file a federal unemployment tax return with payment. All in all, I figure that these reports involve some forty to fifty pieces of paper, filed in five separate offices.

After this is done, I have to prepare my Form 1040 and also a form for the District of Columbia income tax. (Previously, I have also had to file income tax returns in California, Massachusetts, New York, and France, but my retirement has eliminated the need for returns in California, New York and France. And I recently changed my domicile from Massachusetts to the District of Columbia. So I no longer need to file a Massachusetts income tax return, with some complicated provisions, including the credit for taxes paid elsewhere.)

So now, I have the January papers done, consuming many hours of time, but the Form 1040 and the D.C. form lie ahead. I know from past experience that the Form 1040 will fill twenty or more pages, with further schedules, and will weigh about a quarter of a pound when I come to mail it. My problem is partly due to the fact that I have always made out my own tax returns. I started this years ago, when I figured that, as a tax professor, I ought to be able to make out my tax return. Even if I had an accountant do it, I find it hard to see that it would save much time, because it would take a great deal of time to compile the basic figures, and to explain to the accounting professional the relevant details of my situation. A further fact is that I have always included a complete list of charitable contributions as a supplement to Schedule A, and an item-by-item list of dividends received in a supplement to Schedule B. My chief motivation for this is to be sure that I get the figures right, with the further thought that when my return is compared with the reports which the IRS receives, the impression may be created that the return was carefully and accurately prepared, and I would have fewer problems with the tax officials. As a practical matter, this has worked out over the years.

Although I have not kept precise time figures, my best estimate is that the preparation of my Form 1040, and my D.C. income tax return, occupies a hundred hours. I used to type it, but now I fill it out in long-hand, and make Xerox copies for my own files.

Now I am just a simple retired law professor. There must be thousand of others who encounter similar problems of preparation. Even where the taxpayer is sensible enough to have his returns prepared by an accountant, the expense must be considerable, including the expense of advising the accountant, and consultations with him.

Similarly, the expense to business corporations in handling their taxes must be enormous. They have to prepare five copies of a 1099 for each stockholder, and cover the cost of mailing. Even with sophisticated business machines (which are expensive), it is a considerable task to compile this information. Then, on their own returns, there is great expense in accumulating the data, even with modern computers, and in handling all of the accounting and legal problems which arise in preparing the return, and after it has been filed.

I need not go into this further. You are all familiar with it. The net result, in my view, is that our present tax system, which worked very well during the first third of this century, and struggled along during the second third of the century, has now come to the place where it is simply monstrous. We would never accept it if it had not just crept up on us, if the tax lawyers had not done their ingeniously intricate job. Something has to be done about it. It will be very hard to do. I do not have any very good suggestions.

There is much talk about a value-added tax—or, what amounts to about the same thing, a consumption tax. The difficulty with this is that it is highly regressive, and we need a system which is much less regressive than our present system is. Those who have worked on this problem say that a value-added tax can be devised which is not regressive. It is my fear, though, that once we start down the road of devising means which will modify the tax for persons of small incomes, we will be beginning the process which has led us to the present crisis under the income tax, which has grown out of the simple scheme which started in 1913. All that I can say now is that I think that this is a major problem. I hope that competent tax lawyers, such as the members of this College, will play a useful and important role in helping to solve it.

With that, I have hit some high points. It will be hard to bring about changes, but it is my earnest hope that tax lawyers will join in leading the way.

---



## COMMUNICATIONS

---

09/24/93 09:30

202 6261943

STATE OF TEXAS



STATE OF TEXAS  
OFFICE OF THE GOVERNOR  
AUSTIN, TEXAS 78711

JOE W. BOWEN

GOVERNOR

September 23, 1993

The Honorable Daniel Patrick Moynihan  
Chairman  
Senate Committee on Finance  
205 Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Mr. Chairman:

I'm writing to express my support for Dr. Shirley S. Chater's nomination to serve as the Commissioner of the Social Security Administration. Dr. Chater is a woman of high integrity and is a good friend and colleague.

I first became aware of Dr. Chater's tremendous leadership abilities through her reputation as an innovative administrator of two higher education institutions, Texas Woman's University and the University of California, San Francisco.

Serving as President of Texas Woman's University since 1986, Dr. Chater has brought stability to the university while overcoming tough budget constraints and a significant increase in population. In this capacity, she has overseen a campus academic reorganization, initiated a university-wide human relations program welcoming diversity, promoted faculty governance and peer review, and represented the university to legislators in Austin. She has successfully maintained the university's autonomy within higher education in Texas.

Knowing of Dr. Chater's seasoned administrative and management skills and her considerable contributions to Texas higher education, I appointed her to Chair the Texas Health Policy Task Force. From November 1991 to January 1993, Dr. Chater excelled in her role by utilizing bold leadership skills to complete a set of recommendations to make health care affordable and accessible to all Texans. This was not an easy task as Dr. Chater had to preside over a group of twenty-nine State Legislators and members from the general public that had diverse priorities and ideas.

Upon completion of the recommendations, Dr. Chater acted as the state's spokesperson to educate the public while testifying before the legislature to persuade passage of its main tenants. Many of the recommendations have been enacted and others await implementation pending action on national health care reform.

Given her exceptional management and leadership skills, I strongly believe that Dr. Chater not only has the ability to tackle the profound challenges before our nation's Social Security system, but will honor us in doing so.

Sincerely,

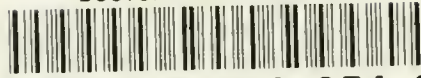
A handwritten signature in dark ink, appearing to read "Ann Richards", written in a cursive style.

ANN W. RICHARDS  
Governor





BOSTON PUBLIC LIBRARY



3 9999 05982 354 0



ISBN 0-16-043459-9



9 780160 434594

90000







